

ZONING COMMISSION

PUBLIC HEARING

THURSDAY
OCTOBER 17, 2002

The Public Hearing of the District of Columbia Zoning Commission convened at 6:35 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., Carol J. Mitten, Chairperson, presiding.

COMMISSIONERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
PETER G. MAY	Commissioner
JOHN G. PARSONS	Commissioner
JAMES H. HANNAHAM	Commissioner

COMMISSION STAFF PRESENT:

ALBERTO P. BASTIDA Secretary, Z.C.
SHARON SANCHEZ Office of Zoning

OTHER AGENCY STAFF PRESENT:

JENNIFER STEINGASSER Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

ALAN BERGSTEIN, ESQ.

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(6:35 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a Public Hearing of the Zoning Commission of the District of Columbia for Thursday, October 17th, 2002. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood, and Commissioners Peter May, John Parsons and James Hannaham.

The subject of this evening's hearing is Zoning Commission Case No. 01-02TA, the request for proposed text amendments to rules that govern antennas, antenna towers and monopoles.

Notice of today's hearing was published in the D.C. Register on August 9th, 2002, and in the Washington Times on August 30th, 2002. This hearing will be conducted in accordance with the provisions of 11 DCMR Section 3021, which are the procedures for rule making hearings. Copies of today's hearing announcement are available to you, and are located on the table near the door.

The order of procedure will be as follows. Preliminary matters, followed by the presentation from the Office of Planning, reports of any other government agencies, reports by ANCs, organizations

1 and persons in support, organizations and persons in
2 opposition.

3 The following time constraints will be
4 maintained in this hearing. Organizations will have
5 five minutes, individuals will have three minutes, and
6 I'll have another comment about that in a minute. The
7 Commission intends to adhere to these time limits as
8 strictly as possible in order to hear the case in a
9 reasonable period of time. The Commission reserves
10 the right to change the time limits for presentations
11 if necessary, and notes that no time shall be ceded.

12 All persons appearing before the
13 Commission are to fill out two witness cards. These
14 cards are located on the table near the door. Upon
15 coming forward to speak to the Commission, please give
16 both cards to the reporter who is sitting to our
17 right.

18 The decision of the Commission in this
19 case must be based on the public record. To avoid any
20 appearance to the contrary, the Commission requests
21 that persons present not engage the Members of the
22 Commission in conversation during a recess, or at any
23 other time. You may address any procedural questions
24 to Mr. Bastida or Ms. Sanchez throughout the hearing.

25 Please turn off all beepers and cell

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1 phones at this time, so as not to disrupt these
2 proceedings. At this time, the Commission will
3 consider any preliminary matters. Mr. Bastida, do you
4 have any preliminary matters before I address the time
5 issue?

6 SECRETARY BASTIDA: No, the Staff has no
7 preliminary matters, Madam Chairman.

8 CHAIRPERSON MITTEN: Thank you.

9 We know that the time constraints are --
10 they are constraining. There's not a lot of time to
11 make an oral presentation, and we have not had the
12 benefit of the written documentation that many people
13 are going to submit, to read that in advance, and then
14 ask intelligent questions when you give your five
15 minutes or three minutes of summary testimony. So
16 what we'd like to do is to have folks testify tonight,
17 and we'll get through as much as possible. We'd like
18 to stop around 9:30, because I think three hours of
19 very technical information is about as much as we can
20 absorb in one evening, and we will reconvene on
21 Monday, the 21st at 6:30 in this room. And at that
22 point, we'll hear testimony from anyone who didn't get
23 a chance to testify tonight. And then anyone who has
24 made a detailed written submission, we will read that
25 between now and then. And if you make yourself

1 available for questions, to the extent that the
2 Commission has additional questions at that time,
3 after they've had a chance to read your detailed
4 submission, and if you make yourself, then we'll ask
5 for those folks -- we'll ask them to come up and
6 answer any questions that the Commission has on
7 Monday, so that's the most efficient way for us to
8 proceed this evening. So that being said, I think
9 we'll turn now to the presentation by the Office of
10 Planning.

11 MS. STEINGASSER: Thank you, Madam Chair,
12 Zoning Commissioners and audience. This set of zoning
13 regulations, this proposed set of zoning regulations
14 came forward out of the roundtables which spurred from
15 an initial proposal in February of 2001 for amendments
16 to just tower regulations. At that time, the Zoning
17 Commission felt that a more comprehensive review of
18 the overall antenna regulations, as well as towers and
19 monopoles needed to be performed, and the regulations
20 looked at.

21 The Commission held two roundtables in
22 February of 2001, and March of 2001, and they were
23 heavily -- the participation was quite large. The
24 major four issues that came up from both citizens and
25 industry representations were RF emissions, which

1 citizens were concerned about the emissions. Industry
2 was concerned about preempting FCC standards, issues
3 of towers, their location, their appropriate
4 locations, the antenna types and how they should be
5 regulated as land use, and there be clarification in
6 the zoning regulations regarding all of the above.

7 The Commission then invited anyone to
8 participate who was interested in a working group with
9 the Office of Planning to revise these regulations,
10 and we did have a very good crowd. Representing
11 citizens were Anne Loikow, Peter Tannenwald, Dorothy
12 Miller, Stephanie Kinney and Laura Richards. And at
13 this point, I need to extend an apology to Ms. Kinney
14 for leaving the E and misspelling her last name. And
15 especially to Ms. Richards for misspelling her name to
16 the extent that I listed her as Liz Harris, so I
17 apologize to those two.

18 The industry representatives were
19 represented mostly by lawyers of the firm Cole,
20 Raywood & Braverman, Ed Donahue and Terry Cooke were
21 present. Jackson & Campbell, Robert Cooper and Alan
22 Swendiman were also present. Holland & Knight were
23 represented by Carolyn Brown, and Venable was
24 represented by Erik Huey and William P. Cook.

25 The industry reps represented the

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1 following industries, as you can see -
2 telecommunication companies as you can see here. The
3 antenna review group had several meetings, eight
4 meetings all together, with OP agreeing to draft the
5 initial proposed regs, and then the group performing
6 a review and critique.

7 At this point, I would -- let me move
8 forward. On the 25th of July, we probably had was one
9 of our most interesting and fruitful meetings where
10 the FCC came, and Dr. Robert Cleveland and Ed Manoply
11 of the Office of Engineering and Technology talked to
12 their group with their attorney, Evan Barinoff, and
13 they talked about the radio frequency standards, and
14 the legal boundaries of local zoning regarding those
15 standards and antennas.

16 They explained to the group that the local
17 municipalities cannot set RF standards in excess of
18 those established by the FCC. They also explained
19 that the local zoning regulations, however, may be
20 used to address the placement and construction of
21 antennas and towers, but they may not result in the
22 prohibition of service, and they may not discriminate
23 between service providers.

24 The FCC's limits apply cumulatively to all
25 sources of RF emissions, and this was a very important

1 point for the group, I think, to understand how the
2 RFs are judged, that they do have a cumulative affect,
3 and when co-locating on one facility on a roof, or a
4 tower, all RF radiation from all antennas should be
5 addressed and measured.

6 When approaching the regulations after
7 these meetings and getting to the text, we also looked
8 immediately at the comprehensive plan. And these were
9 the most relevant sections to how we approached both
10 protecting neighborhoods, and promoting public safety,
11 public interest, and trying to accommodate the
12 emerging technologies that this industry represents.

13 The current zoning regulations were, of
14 course, where we went next. We were all painfully
15 familiar with them. Each section had -- each zoning
16 district had multiple sections regarding different
17 types of antennas. And this is in a chart in a
18 paraphrased form, lists the different types of
19 antennas on top, panel, dish, Yagi, GPS and Whip, and
20 then the tower structures along the bottom.

21 Based on technical corrections that were
22 recently approved by the Commission on September 9th
23 of this year, this is the current and corrected
24 version of the Special Exception Review for Tower
25 Structures through all zones. However, I believe I am

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1 wrong here. The CM and the M zone should be matter-
2 of- right, and I apologize for that. I thought I had
3 gotten that corrected.

4 It was decided by the group that it would
5 be most appropriate to create a new chapter, what
6 we're calling Chapter 26, and take all the antenna
7 regulations, compile them into one comprehensive
8 chapter that would allow us to unify both the antenna
9 and the tower regulations, strengthen the purpose of
10 the regulation, and provide for the reasonable
11 expansion of antennas and wireless service in
12 recognizing the emerging technology, and how fast that
13 industry changes.

14 We felt that this also gave us an
15 opportunity to specify appropriate zoning districts
16 for each of the uses and to establish new definitions,
17 matter-of-right uses, special exception, and submittal
18 information. Along with that, we are proposing that
19 evidence of FCC compliance be submitted, and that
20 Public Hearings be provided for towers and monopoles.

21 These are the proposed regs, again in a
22 chart form. And again, the CM zone should be by
23 right. I'm sorry, that's a mistake. The CM zone is
24 special exception. The most contentious is,
25 obviously, the red corner regarding monopoles, towers

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1 where we're recommending that they not be permitted in
2 the residential zones at all, or in the local
3 commercial zones.

4 It was OP's position that the uses were
5 incompatible with the intent and purposes of those
6 zones, and at this point, I must also state that this
7 proposed regulation by no means is a consent item from
8 the working group. There was a great deal of dissent
9 on this particular issue, more than any other, and I
10 believe you'll be hearing from those who have
11 alternate proposals later this evening.

12 Now I would like to take a minute to just
13 kind of go over the types of antennas, so everyone is
14 familiar visually with what it is we're talking about.
15 This is a standard panel antenna. You see them along
16 the roofs of buildings quite often. They're typically
17 four to six feet. They're used for cellular and
18 wireless facilities. They're anywhere between five
19 and twelve inches in width, two to four inches deep,
20 when they're mounted they're usually one to two feet
21 out from the walls. They need a line of sight for
22 signal.

23 This is the sled mount, which we talk
24 about in building mounted proposals. They usually
25 elevate the antennas, get them usually over parapet

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1 walls. They're also commonly in historic districts,
2 because the Historic Preservation Office finds them to
3 be the less structurally intrusive to a building, and
4 they view antennas more as a temporary structure, so
5 you see them a lot in the historic districts.

6 The panels are nice because they can be
7 flush-mounted to a wall and painted, and they can be
8 -- then from a distance, their appearance is
9 minimized, and this one I thought was a great example
10 where they actually tried to paint the different
11 textures as they moved across the bricks.

12 There's dish antennas, which we're all
13 pretty familiar with. They vary in size. They can be
14 open or opaque, and they can be mounted both on the
15 ground, or on a roof. And they're also -- they're
16 easily seen on towers.

17 The Yagi antenna, which besides its great
18 name, is most common that you used to see on houses
19 for old T.V. air reception. They vary in height.
20 They're usually externally mounted to a building.

21 The Whip antenna is a rigid, usually a
22 long plastic rod about two inches in diameter. It's
23 vertically mounted, and it has an Omni directional
24 reception and transmission. It can be ground mounted,
25 as you can see on the bottom picture, but that's not

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1 typical in Washington. In Washington, you usually see
2 them around the roofs of buildings, and around
3 penthouses. They are also easily incorporated
4 architecturally, because they do have such a distinct
5 little shape.

6 Monopoles are single self-supporting pole-
7 type structure. They can typically hold three arrays
8 is what you usually see. They have fairly high
9 elevations. They're used where elevations can't be
10 reached otherwise. Typically, they run about 100 to
11 199 feet. This shows one here next to a two-story
12 house. You get the feel for that. The monopoles,
13 like I said, they carry multiple arrays. That picture
14 is not very clear, but you can see its got four
15 arrays, and then that's a typical triangular platform
16 that goes on the monopoles. Typically, the platforms
17 are separated by three to fifteen feet, depending on
18 the types of antennas that may be mounted to them.

19 Towers are variable in height. They're
20 industrial in nature, and they really cover the gamut
21 between how they're used and how they're -- and the
22 types of antennas this -- these antennas -- this is
23 obviously an extreme photograph. It's got broadcast
24 dishes, Whips and panels.

25 There's also stealth structures which we

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1 set down in the alternative, and we'll be very
2 interested in hearing more about that, despite our
3 supplemental recommendation that they be considered by
4 special exception. Stealth structures do provide for
5 a large degree of minimizing the impact. In this
6 case, this again is a little more extreme, but it is
7 a light standard with banners on the top, and then the
8 antenna is above. You can also see them in crosses,
9 in flag poles.

10 We then went to the intent of the zoning
11 regulations, and began work on the regulations
12 themselves, and felt that the existing intent as
13 published in Section 2520 of the zoning regs was still
14 relevant. It talked about the health, safety, welfare
15 of the population, and the esthetics interest of
16 Washington in its role as the national capitol. We
17 felt those were very compelling. Obviously, the legal
18 context of health, safety, welfare just, again, re-
19 stresses that section. We proposed these sections be
20 adopted in total.

21 Okay. We seem to have lost the rest of
22 the Power Point. The rest of the Power Point went
23 through in more detail -- okay. Let me just pull that
24 down and continue without the Power Point.

25 The rest of the regulations focused on the

1 proposed regulations in summary, and I'll leave that
2 chart up for discussion. We looked mostly at -- if I
3 can just get down here. I apologize. I understand
4 time is tight, and I will get right to. Here we go,
5 just a little recap here. Okay. Well, we'll just
6 look at the notes on the side. Obviously, I'm not a
7 technician.

8 The proposed -- again, going back to the
9 summary of the proposed amendments were to define and
10 regulate antenna towers and monopoles separately from
11 antennas so that there would no longer be the
12 confusion as has been in the past. Okay. So for the
13 proposed regulation of antennas, separate from towers
14 and monopoles, we felt that -- we broke them into four
15 separate categories. Matter-of-right antennas, all
16 antennas, other than broadcast antennas in residential
17 zones are allowed as a matter of right. These are the
18 antennas, not the towers or the monopoles.

19 We exempted some antennas out, which are
20 set forth in the regulations, Yagis for residence, one
21 Yagi per house. There's a certain category of exempt
22 towers, exempt antennas. We also then went to
23 location-based antennas, and unless antennas were
24 exempt, they are subject to location-based criteria,
25 setbacks, placement on roofs, separation from

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1 recreation space, as well as how they're mounted on a
2 building, and how they might be mounted on the ground.
3 If they don't qualify for the location-base or
4 exempted antennas, they would then be permitted to go
5 forward as a special exception.

6 Regarding monopoles and towers, we took
7 the same approach. We went with the matter-of-right
8 towers, which we felt were appropriate in the M zone,
9 the industrial zone, which is consistent with the
10 intent and purposes of that zone. We gave a matter-
11 of-right height up to 120 feet. That took the maximum
12 permitted height within the M zone, and then allowed
13 for a projection of three possible arrays on top of
14 that, which gave us another 30 feet, and got us to
15 120. And that's what we thought was a matter-of-
16 right. It was an acceptable maximum. That's allowing
17 all the antennas to be above possible roof lines.

18 Special exception would be available for
19 towers and monopoles in the C-2, C-3, C-4, SP, CR, W
20 and CM zones, with heights to be determined by need.
21 And in the M zone, if they need a height in excess of
22 120 feet. We felt this was very important because it
23 did provide the public hearing and public review to
24 establish no adverse impact in the criterias regarding
25 character of neighborhood, its placement, as each

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1 zone, especially in some of the industrial zones have
2 very close residential neighbors. This provided a
3 type of public review that we heard definitely
4 requested by some of the citizens at the roundtable
5 and the working group.

6 Our most restrictive piece is this one
7 where we do not recommend that towers and monopoles be
8 permitted in the R residential zones, or in the C-1
9 local commercial zones. We look to the intent of the
10 R-1 zones, which is designed to protect quiet
11 residential areas developed with one-family detached
12 dwellings in this case, because this is the R-1. But
13 that intent of residential development is carried
14 through all the R zones.

15 The provisions of this chapter are
16 intended to stabilize residential areas, and promote
17 suitable environment. For that reason, only a few
18 additional and compatible uses shall be permitted. OP
19 found that to be a very significant statement, and
20 carried that through as went through the rest of the
21 zoning regs.

22 We looked then at the C-1 intent, which is
23 designed to provide convenient retail and personal
24 service establishments for the day-to-day needs of the
25 small tributary area, and with a minimal impact on

1 surrounding residential development. It also calls
2 out that each district shall permit only low-bulk
3 development. Considering the height, the very nature
4 of monopoles and towers requiring and providing
5 height, we felt it was also an incompatible use with
6 the C-1 zone, and that it should be not permitted in
7 these zones.

8 We felt that if the case was made that
9 this a residential or a C-1 zone was the only possible
10 place that the tower or monopole could go, then that
11 was the very standard that's required for a variance,
12 because they could then establish that there is an
13 undue hardship, there is practical difficulty, and
14 they should have no problem getting a variance if
15 that's the case, so we thought that this was not an
16 undue hardship to bring this proposal forward.

17 We felt that the current plan supported
18 this type of limitation within the R zones,
19 establishing and representing the neighborhoods,
20 respecting and improving the physical character, and
21 preserving the historic character of the district.
22 And we found that to be very important, because
23 Washington is not just a standard big city. It is the
24 nation's capitol. It has significant image throughout
25 the world, and we took that very seriously as we

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1 looked at the types of aesthetic impacts that these
2 things could have. And we didn't feel that antenna
3 towers and monopoles were locally serving or low in
4 bulk.

5 We did, however, feel that the M zone was
6 a suitable place for the development of the heavy
7 industrial sites, at the same time protecting
8 industrial development from intrusions. This is
9 specifically the type of zone that such an industrial
10 use was designed to go into, so we did recommend that
11 they go forward as a matter-of-right in these zones.
12 WE did increase the setbacks for the towers. We
13 recommended doubling them. You'll hear testimony
14 later in the evening as to why there may be a case for
15 even more setbacks than this.

16 We felt the setbacks needed to be
17 increased. One foot for every six feet is what the
18 setback to height is now in the current regs. We felt
19 that it was important to go at least cut that in half,
20 and go to one to every three feet, so in the case of
21 a by-right antenna tower of 120 in the M zone, it
22 would be setback forty feet, which we felt was pretty
23 substantial. It also helped the tower not be an
24 attractive nuisance, and not be easily accessible from
25 a property line or a street.

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1 There are cases where towers collapse.
2 This one in Raleigh in 1989 collapsed because
3 preliminary engineering studies suggest that it was an
4 ice build-up, with uneven melting so that all the ice
5 stayed on one side of the tower. This is a week after
6 the collapse, and they have not started the salvage at
7 this point, so these things do fall, and it was a
8 concern how these things are located in that setback
9 issue.

10 We did, however, feel that the more
11 lenient regulations could be provided to encourage
12 service beyond use of towers and monopoles, and we
13 recommended that the cap that currently exists in the
14 regulations of antennas on rooftops be removed, and
15 that they be subject to the location-based, and that
16 they also be subject to proof of FCC compliance. We
17 felt that was the way to encourage antennas to be
18 placed on existing rooftops and utilize rooftops,
19 thereby minimizes the intrusion into the skyline. It
20 was kind of a nod to increasing that. Washington does
21 have a fairly low height limit, so there's a
22 uniformity that's kind of unique to Washington that's
23 not available in other cities.

24 In that, I'm going to bring it to a
25 conclusion. We do recognize that Washington is an

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1 information city, and that is what we do here. And
2 that there is an increasing demand for wireless
3 service of all types, and that this is an incredibly
4 complex issue, and we very much welcome the input that
5 we've gotten so far, and the participation of
6 everybody in these groups, and any additional
7 information that we'll be getting in the next course
8 of these hearings.

9 We recognize that the technology is ever-
10 changing, and we don't want the regs to be
11 shortsighted and close that out, so we're very much
12 looking forward to what we'll be hearing this evening
13 and next week. And with that, that's the end of our
14 presentation on the regs.

15 CHAIRPERSON MITTEN: Thank you, Ms.
16 Steingasser. Any questions from the Commission?
17 Okay, Mr. May. My head was getting dizzy.

18 COMMISSIONER MAY: I guess the first
19 question I have is one of the last points that you
20 made, which had to do with expansion of wireless
21 technology. And I guess what I wonder is whether in
22 the course of your studies and discussions, whether
23 you've gotten a sense of the level of coverage or
24 saturation we already have with regard to wireless.
25 I mean, there are only so many providers or so many

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1 services that exist. I mean, how many more towers are
2 we looking at in the future?

3 MS. STEINGASSER: You know, I couldn't
4 guess on how many more towers. I'm confident that
5 there is a need for increased service. You know, we
6 probably all experience it just driving around with
7 our phones, especially as you get into some of the
8 less dense areas, dense by development, or into the
9 parks areas. There is a need for increased service.

10 I couldn't guess how that's going to
11 translate in the future. Antennas are getting
12 smaller, they're getting more efficient. We've seen
13 some really creative use of technology where they've
14 made them look like chimneys, so there's all kinds of
15 changes going on, but I couldn't take a guess on how
16 many more towers.

17 COMMISSIONER MAY: Well, there are some
18 very interesting Redwood trees on the New Jersey
19 Turnpike, for example, or I think it's the Garden
20 State. Well, I'm sure that will come out in some of
21 the other testimony, because that is one of the things
22 that I'm curious about, because it seems like that's
23 the most, the area where there's the most immediate
24 pressure.

25 One of the other concerns I have is one

1 that I have voiced before, which is dish antennas, and
2 the proliferation, seemingly in violation of current
3 regulations.

4 MS. STEINGASSER: Uh-huh.

5 COMMISSIONER MAY: Which the way I read
6 the current regulations would require that a dish
7 antenna be installed on the roof or on the backside of
8 a house.

9 MS. STEINGASSER: Yes, sir. That's
10 correct.

11 COMMISSIONER MAY: That's what the current
12 regulations require. Right?

13 MS. STEINGASSER: Yes, they do.

14 COMMISSIONER MAY: And we're not doing
15 anything with this that would change that, or would --
16 with the exception of -- I've forgotten what the
17 changes were. There was some allowance for dish
18 antennas in building of smaller height now.

19 MS. STEINGASSER: Uh-huh.

20 COMMISSIONER MAY: Recognizing the fact
21 that you can get an 18 inch dish antenna; whereas,
22 when it was written, they only were four feet or
23 larger. Is that right?

24 MS. STEINGASSER: Yes. I think a lot of
25 the issue that you have, and we've talked about it,

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1 especially in the historic districts you see it quite
2 often, is an enforcement issue. They can buy them and
3 plug them in. You know, it's self-install so there's
4 very little permit involved in getting the review and
5 getting them regulated. So it is an enforcement
6 issue, and we are aware of it, you know.

7 COMMISSIONER MAY: In the current
8 regulations, are permits required for Yagi antennas?

9 MS. STEINGASSER: No.

10 COMMISSIONER MAY: They're not required.

11 MS. STEINGASSER: I do not believe they
12 are.

13 COMMISSIONER MAY: Except in historic
14 districts.

15 MS. STEINGASSER: Right, in the historic
16 district. You know, I say that, but I would -- let me
17 double check that there's not an electrical permit or
18 something with the Yagi.

19 COMMISSIONER MAY: Yeah. Okay. One of
20 the things that -- obviously, we're not talking about
21 enforcement here tonight, but this is a really big
22 issue for me personally in terms of the esthetics of
23 the city, because within the historic districts there
24 is some control over it. And I call the -- well, I
25 send emails about antennas that I spot in historic

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1 districts all the time, not antennas but dish antennas
2 because they seem to be popping up with much greater
3 frequency. But throughout the rest of the city, I
4 mean, there are so many beautiful houses being defaced
5 by having these things attached just to the front or
6 to the side if they're on a corner. And, you know, I
7 don't know that we're going to get to the heart of
8 that in this regulation, but I guess part of my
9 question is, is there anything more that we can be
10 doing or should be doing here, and what you had
11 investigated?

12 MS. STEINGASSER: We did look at that
13 specific issue because you had mentioned it at
14 different hearings. We've also tried to survey
15 surrounding jurisdictions and see what they are doing.
16 And none of them have addressed this issue directly,
17 the small residential dishes that plug in, but we will
18 keep working to see -- I can keep looking and see what
19 else we can find, but it's been very difficult to find
20 ways to regulate those small dishes.

21 COMMISSIONER MAY: I think at one point I
22 may have suggested that there be some contact with the
23 industry that supplies those, whatever that is,
24 whether it's specific vendors, or what have you. Were
25 you able to --

1 MS. STEINGASSER: We were not. Now we
2 worked with the Historic Preservation Office in that
3 regard, and tried to contact some of the -- I've
4 forgotten the company name, but I do have it at the
5 office, and I can follow-up on what our contact was
6 with that. And basically they were salesmen, it
7 wasn't -- it was hard to get a policy.

8 COMMISSIONER MAY: Yeah. I think they've
9 called me, tried to sell me a dish. That's it for me
10 at this point.

11 CHAIRPERSON MITTEN: Thank you, Mr. May.
12 Mr. Hannaham.

13 MR. HANNAHAM: Oh, thank you. I was just
14 curious. You show a really diverse group of people
15 who are involved in the discussions that led us to
16 where we are right now with regard to the proposed
17 regulations. I don't remember, maybe I missed
18 something. I didn't see any university associations.

19 MS. STEINGASSER: No, sir.

20 MR. HANNAHAM: Are there any universities,
21 because we've got somebody in this area, somebody in
22 the region.

23 MS. STEINGASSER: Right. No universities
24 participated, and no actual property owners,
25 commercial land owners - let me distinguish -

1 participated.

2 MR. HANNAHAM: Okay. Just a thought.
3 That's it. Thank you very much.

4 CHAIRPERSON MITTEN: Mr. Parsons.

5 COMMISSIONER PARSONS: Yes.
6 Congratulations on getting us to this point.

7 MS. STEINGASSER: Oh, thank you.

8 COMMISSIONER PARSONS: I've never fully
9 understand, nor have I participated in any hearings
10 that deal with the antennas that exceed the building
11 heights of 1910, but I do understand the mayor has
12 that decision --

13 MS. STEINGASSER: Yes, sir.

14 COMMISSIONER PARSONS: -- not the BZA.
15 But the BZA does review those.

16 MS. STEINGASSER: Yes, they do.

17 COMMISSIONER PARSONS: And there doesn't
18 seem to be any special guidance in here at all for
19 those large antennas. Have I missed something?

20 MS. STEINGASSER: I believe we set some
21 locational criteria and some impact assessment
22 criteria.

23 COMMISSIONER PARSONS: Okay.

24 MS. STEINGASSER: You know, we could
25 certainly look at detailing that further, if that's

1 subject to BZA antenna --

2 COMMISSIONER PARSONS: All right. Well,
3 I'll find it. We don't need to take time out. I'm
4 sorry I missed that. Now there's a term in here that
5 hopefully you've had some experience with this in the
6 past, reviewing antennas, but it deals with the views
7 from waterways, from parks, from adjacent streets.
8 And it says, "They will be screened to the greatest
9 practicable extent."

10 MS. STEINGASSER: Yes, sir.

11 COMMISSIONER PARSONS: Have we got any
12 examples of that kind of screening --

13 MS. STEINGASSER: Yes.

14 COMMISSIONER PARSONS: -- existing in the
15 city, I mean.

16 MS. STEINGASSER: There's several examples
17 of very sensitive screening. One Massachusetts Avenue
18 has 18 small dish antennas on their roof, and they
19 built a Stealth penthouse that completely mimics the
20 roof so it looks like it's just a natural part of the
21 building, and it's made out of the Stealth
22 transmittable material, and I think WinStar built it
23 originally.

24 COMMISSIONER PARSONS: Well, I guess what
25 I'm urging is, if we could somehow get into the record

1 what is meant by the term "greatest practicable
2 extent."

3 MS. STEINGASSER: Okay. That particular
4 phrase was, I think, an entire evening's discussion
5 between practical, reasonable.

6 COMMISSIONER PARSONS: I bet it was, but
7 I mean boy, if I was sitting on the board trying to
8 figure out what that meant, I --

9 MS. STEINGASSER: Well, there were
10 limitations that we ran across, and I've seen it
11 through the review of antennas, where the best
12 building for the antenna is old, and it can't carry
13 the weight of a Stealth structure, of a false
14 penthouse or a screening, so that's where they came up
15 with this fabulous little chimney-type piece. You
16 know, it's a little bit larger than a chimney, but
17 from the distance, it looks like a chimney, so there
18 are cases where it's not practical because the
19 building can't hold the weight any longer, or CFA may
20 not approve something. So there's conflicting goals
21 often at play, and I think the industry reps were very
22 sensitive to that particular phrase, that it be the
23 most practical, but I will work to get some additional
24 definition and define that a little better.

25 COMMISSIONER PARSONS: The only hint of

1 that is where you talked about penthouses and how you
2 could put an opaque device, which I would urge us to
3 say is of similar color, but you obviously know that
4 section, but that was the only place where I could see
5 that kind of indication.

6 I'm concerned about the written agreement
7 for co-location. It would seem to me, if that was a
8 mandate, that could make the antenna necessarily 45
9 feet higher in anticipation of co-location. In other
10 words, the first applicant comes in and says gee, I
11 only need 90 feet to cover this area, but I can't go
12 below 50, so I've got to go higher. So the antenna
13 pole actually gets higher in anticipation of co-
14 location. Am I imagining something?

15 MS. STEINGASSER: No, sir, you're not at
16 all. That is something that we tried to wade through,
17 was it best to have, you know, several low antennas or
18 one higher antenna that's already breaking the
19 horizon, and already cutting through the skyscraper.
20 It was our feeling that one blighted spot with -- we
21 may as well maximize that spot and make it feasible.
22 But perhaps we could address that through the Special
23 Exception Review process as to which has the lesser
24 impact.

25 COMMISSIONER PARSONS: I think that would

1 be helpful because, you know, each case is so special,
2 so unique. Give them some latitude instead of a
3 mandatory, you will bring in a - what is it - a
4 written agreement for co-location is mandated on all
5 monopolies. Is that true? Have I missed that?

6 MS. STEINGASSER: No, that was our
7 intention.

8 COMMISSIONER PARSONS: Yeah.

9 MS. STEINGASSER: That they be designed
10 for co-location.

11 COMMISSIONER PARSONS: Okay. Now on these
12 sub-packs, of course, I'm getting back to my first
13 question. I probably shouldn't because you've told me
14 to go read further. No, you suggested I go read
15 further. But how, under these setback regulations,
16 could an antenna of 550 feet ever occur in the city
17 again?

18 MS. STEINGASSER: I don't believe it
19 could.

20 COMMISSIONER PARSONS: Four fifty, three
21 fifty.

22 MS. STEINGASSER: It would take some
23 unique geometry of land parcels to make it happen, but
24 in some of the industrial zones where - especially on
25 New York Avenue where you do have fairly large

1 stretches of industrial land between the railroad
2 tracks, for instance - you could probably get a good-
3 sized pole, a good-sized antenna in there.

4 COMMISSIONER PARSONS: But not at the 500
5 foot level you don't. Well, don't guess.

6 MS. STEINGASSER: I can check on that, but
7 I believe you may be able to. I mean, it may require,
8 like I said, collecting some properties, to assemble
9 some properties to get the setbacks.

10 COMMISSIONER PARSONS: It would seem to me
11 the only land owner that could do that would be the
12 federal government. I mean, they've got enough land
13 to get those kinds of setbacks.

14 MS. STEINGASSER: It is a fairly
15 restrictive setback issue, but I believe it's one, I
16 think needed to be addressed. I am familiar, other
17 jurisdictions actually have one-to-one where they
18 really, they get much more stringent. But because of
19 the --

20 COMMISSIONER PARSONS: Did you consider
21 one-to-one?

22 MS. STEINGASSER: We did. We did. I
23 mean, we considered one-to-one, considered leaving it
24 where it was. I felt one-to-three was more
25 appropriate than one-to-one. I think one-to-one

1 really would preclude -- would get into areas where
2 we're beginning to preclude service and the
3 advancement of technology that the city wants.

4 COMMISSIONER PARSONS: Because you require
5 a half acre lot to start with. Right?

6 MS. STEINGASSER: Right.

7 COMMISSIONER PARSONS: So if your pole is
8 120 feet high, it just -- it would be a strange half
9 acre.

10 MS. STEINGASSER: It would indeed, and it
11 would get -- then you're dealing with, like you
12 suggested, the aesthetic impacts, and the efficient
13 use of land.

14 COMMISSIONER PARSONS: Okay. Thank you.

15 MS. STEINGASSER: Yes, sir.

16 COMMISSIONER PARSONS: That's all I have.

17 CHAIRPERSON MITTEN: Thank you, Mr.

18 Parsons. Any questions, Mr. Hood?

19 VICE CHAIRPERSON HOOD: Yes. Ms.
20 Steingasser, I really appreciated the presentation.
21 I would like to know, first of all, could we get
22 copies?

23 MS. STEINGASSER: Yes, sir.

24 VICE CHAIRPERSON HOOD: Okay. Because I
25 guess I'll wait and ask my questions on Monday,

1 because I want to have that on one side of me along
2 with the chart here, because I'm concerned about a
3 matter-of-right issue in the CM zone, but I want to
4 make sure that I have the presentation in front of me
5 before I forward that question.

6 MS. STEINGASSER: Uh-huh.

7 VICE CHAIRPERSON HOOD: The only other
8 comment I have is, how do -- you mentioned that the
9 group, the task force did not come to a consensus.

10 MS. STEINGASSER: No, sir.

11 VICE CHAIRPERSON HOOD: I guess my next
12 question is, how did this come in -- I mean, who
13 presented the information in this packet? How did
14 that come?

15 MS. STEINGASSER: The Office of Planning.

16 VICE CHAIRPERSON HOOD: Okay. So you
17 deciphered what you thought was, I don't want to use
18 the term best practice. I heard that somewhere
19 tonight, but I guess what you did, you deciphered out
20 what you thought, what the Office of Planning thought
21 should be in and should not be in the report.

22 MS. STEINGASSER: Yes, sir. We took the
23 approach that we wanted to use the maximum zoning
24 authority that we had to regulate these. And part of
25 that was driven by the intent statements of the

1 antenna regs and the uniqueness of Washington as the
2 nation's capitol. And I took that very seriously when
3 I looked through these things. The skyline was, you
4 know, is capped by Congress, so who am I to second-
5 guess. But we did take -- we did, at some point, make
6 proposals and some of the evenings were very
7 confrontational but topical, you know, in that we
8 argued the issues pretty adamantly between us. The
9 citizens group didn't always agree with OP, and the
10 industry reps usually didn't agree with OP. And
11 they're going to make their case later this evening.

12 VICE CHAIRPERSON HOOD: Right.

13 MS. STEINGASSER: But we did take what we
14 felt was the maximum zoning authority provided under
15 the FCC, which does allow for the retention of zoning
16 authority.

17 VICE CHAIRPERSON HOOD: Ms. Steingasser,
18 I'm not trying to rush you, but how soon do you think
19 -- if you want to use an email that to me, I can get
20 it and make my own copies, if that'll help you.

21 MS. STEINGASSER: Okay.

22 VICE CHAIRPERSON HOOD: Because I would
23 like to have it for Monday. I'm not trying to rush
24 you, but I would like that.

25 MS. STEINGASSER: I just have to print it

1 off.

2 VICE CHAIRPERSON HOOD: Okay. Sounds
3 good. Okay. Thank you.

4 CHAIRPERSON MITTEN: Thank you. I'd like
5 to thank you and all the folks that worked on the task
6 force for the good effort, and I know we'll hear some
7 differences of opinion, but we've really come a long
8 way. And what we realized when we had the roundtable
9 the first time was how much we didn't know, so we're
10 still getting educated and looking forward to that.

11 An issue that I raised at the set down was
12 about the equipment cabinets or shelters, and whether
13 or not you had any recommendations about size
14 limitations, and whether you had given thought to, you
15 know --

16 MS. STEINGASSER: When we published these
17 in the D.C. Register, we did not go beyond the general
18 roof structure with the height of 18 feet 6 inches.
19 Beyond that, I did not get into area -- a
20 recommendation on size or location, but I continue to
21 look on that.

22 CHAIRPERSON MITTEN: And I think there was
23 another issue, at least the way that these cabinets
24 are being treated now. They're -- I believe we
25 discussed at the roundtable that these are being

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1 permitted as secondary roof structures, even though we
2 have a section in the ordinance that discourages that.

3 MS. STEINGASSER: Yes, ma'am.

4 CHAIRPERSON MITTEN: So, you know, I think
5 we need to have a little bit more conversation about
6 that particular subject. And then also, in terms of
7 the size issue, whether it's on the roof, or whether
8 it's, you know, on the ground. It's one thing, you
9 know, just everybody think oh, yeah. I know how big
10 the shelter is, or the cabinet is now, but as you say,
11 the technology is changing, and we don't want
12 something to get away from us that could be quite
13 bulky, so I'll just ask you to give some additional
14 study to that subject.

15 MS. STEINGASSER: Yes, ma'am. I know some
16 of the citizens' representatives have asked us also to
17 do the same on equipment cabinets.

18 CHAIRPERSON MITTEN: All right. Just for
19 the benefit of the folks here who might not be aware
20 of your supplemental report, did you want to just
21 touch on that briefly?

22 MS. STEINGASSER: Yes, ma'am. Thank you.

23 We did issue a supplemental report last
24 week within the time frame, where we recommended
25 against Stealth antennas being a matter-of-right use,

1 but rather that they be permitted by special
2 exception. Our feeling on that came to light through
3 a real-life experience where a Stealth flagpole exists
4 on a school property. Another carrier wanted to
5 install another Stealth flagpole with no consideration
6 of the existing flagpole, and apparently the school
7 was courting a third carrier to also establish a
8 flagpole. So when we worked through this situation,
9 we realized that Stealthing does not necessarily solve
10 the problem, and it can also become the problem.

11 While we recognize that Stealthing does have, you
12 know, an incredible flexibility for design, and we've
13 seen it in churches in here and the city, we just
14 recommend that special exception is the way to go to
15 allow us to ensure that there is no adverse impact,
16 that there is placement, sensitive placement to other
17 Stealth structures that may be on-site. And as a by-
18 right issue, it would be difficult to control that.

19 We further recommended that the regs be
20 amended to take out the special exception provision in
21 the Capitol Interest Overlay Zone, because it again is
22 incompatible. Antenna structures, and by that we're
23 talking towers and monopoles only, are incompatible
24 with the stated purposes of the Cap Overlay District,
25 which is also part of the Capitol Hill Historic

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1 District. And it's a very small geographic area just
2 east of the Capitol from the freeway to up 6th Street,
3 and we felt that these kind of structures were very
4 much inconsistent with the development patterns and
5 the national interest of the Capitol at that point, so
6 those were our two supplemental recommendations.

7 CHAIRPERSON MITTEN: Thank you. Any other
8 questions for the Office of Planning before we move
9 on? All right. Are there any other government
10 agencies represented here this evening? We don't have
11 any reports in the record. All right. Then we'll
12 move to reports of ANCs. Now I have some folks on the
13 list of witnesses.

14 At this point, I'm asking for people who
15 are representing their ANC, if we have any single-
16 member district representatives here who are not
17 representing their ANC, I'll ask you to just wait
18 until we call up persons in support or opposition. So
19 anyone representing their ANC - Ms. McWood. Anyone
20 else? I need to get you on the mic. Just come
21 forward and state your name for the record, and ask
22 your question.

23 MR. JONES: Good evening. My name is
24 Herbert Jones. I'm with the Office of the People's
25 Council. We will be submitting testimony this

1 evening. I'm waiting for it to arrive, just for the
2 record.

3 CHAIRPERSON MITTEN: All right.

4 MR. JONES: So I wanted to just make note
5 of that.

6 CHAIRPERSON MITTEN: Thank you. Ms.
7 McWood, you can come forward now. If you have
8 something -- do you have some written testimony? You
9 can hand it up to Staff, and they'll pass it out to us
10 as you start.

11 MS. McWOOD: Hello. My name is Nancy
12 McWood. I'm the Chair of Advisory Neighborhood
13 Commission 3C, and I'm testifying on behalf of ANC-3C.
14 The Commission unanimously approved a resolution
15 concerning zoning regulations affecting antennas,
16 antenna towers and structures on which they are
17 installed at the February, 2001 regularly scheduled
18 meeting. I testified previously for the Commission on
19 this subject at the Zoning Commission's roundtable.

20 ANC-3C supports the setback allowances in
21 the text amendments, and the data collection
22 requirements added to the building permit process to
23 ensure compliance with the FCC guidelines, and OSHA
24 regulations. The proposed standards and review
25 procedures for antennas, antenna towers and monopoles

1 will greatly improve the ability of the District of
2 Columbia government to enforce the FCC guidelines, and
3 in so doing, protect the health, safety and welfare of
4 D.C. residents.

5 We continue to recommend that actual field
6 measurements be used to determine cumulative RF
7 radiation emissions at a site before approval of an
8 application for a new antenna at that location. We
9 have recommended that all antennas and antenna towers
10 should be prohibited in or on landmark or Historic
11 District properties. Since new towers and monopoles
12 would not be allowed in R and C-1 Zone districts, we
13 feel confident that most, if not all, historic
14 properties will be protected.

15 We note, however, that the Office of
16 Planning is recommending that antenna towers and
17 monopoles be excluded as a matter-of-right, or special
18 exception use in the Capitol Interest District, as you
19 just heard prior to my testimony. They point out that
20 an historic district is part of the cap, and that a
21 prohibition of antenna towers and monopoles in
22 historic district is consistent with Sections 106
23 through 108 of the Comprehensive Plan.

24 ANC-3C urges the Zoning Commission to
25 accept the OP recommendation. ANC-3C also endorsed

1 the use of a special exception process for all new
2 antenna tower and monopole applications. The text
3 amendments make provision for the special exception
4 process when ground, roof or building-mounted antennas
5 do not qualify as matter-of-right installations.

6 We are concerned, however, that Stealth
7 structures are exempt from all requirements, except
8 certification of compliance with FCC guidelines for
9 transmitting antennas, as well as limitations that
10 would be imposed if the antennas were not screened
11 from view.

12 We ask you to consider that all antennas
13 present the same health, safety and welfare issues of
14 concern to the District of Columbia and its residents.
15 Whether covered or uncovered, the government should
16 ensure that the FCC guidelines and OSHA regulations
17 are being fully implemented. Therefore, we urge the
18 deletion of Sections 2603.1, 2604.1, and 2605.1, and
19 Section 2606. Antennas encased in Stealth structures
20 should be subject to the review stipulated in the text
21 amendments for that type of antenna.

22 As I mentioned earlier, ANC-3C supports
23 the setback allowances in the text amendments.
24 However, we urge the Zoning Commission to revise
25 Section 2611.7 to include, "after residentially

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1 developed or zoned properties, hospital, school, or
2 nursing home." It would be consistent with the intent
3 to locate antenna towers as far from residential areas
4 as reasonable, to also require similar setbacks to
5 protect vulnerable populations in hospitals, schools
6 and nursing homes.

7 We would also recommend that the special
8 exception process provided in Section 2611 include an
9 additional subsection under Section 2611.11 to require
10 the applicant to provide the BZA with the maximum
11 capacity of the tower or monopole, the number of each
12 type of antenna to be installed, and the estimated RF
13 radiation emissions from the tower at capacity. This
14 would allow the BZA to evaluate whether the size of
15 the tower matches the projected use, and even limit
16 the number of antennas provided at that site under the
17 special exception.

18 We further recommend that applicants for
19 new antennas subject to the special exception process
20 should be required to submit and certify information
21 to determine if the antenna meets OSHA regulations and
22 FCC's individual and cumulative site RF radiation
23 emission guidelines.

24 I thank the Zoning Commission for the
25 opportunity to testify today. I applaud the sustained

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1 efforts of the Commission to grapple with this
2 complicated subject. Your responsible approach to
3 this very important matter, and your commitment to
4 safeguarding the health, safety and welfare of
5 visitors and residents alike is greatly appreciated in
6 my community. Thank you.

7 CHAIRPERSON MITTEN: Thank you. Any
8 questions for Ms. McWood?

9 I wanted to ask you, is it your
10 understanding that -- you had mentioned at some point
11 the district enforcing the FCC guidelines. Is that
12 the district's responsibility, to enforce the FCC
13 guidelines?

14 MS. McWOOD: Well, my understanding is
15 that what the city would be doing is using the FCC
16 guidelines in order to protect the health and welfare
17 of the citizens of the district, so my understanding
18 is that yes, you would be using those guidelines as
19 your benchmark for what we should be enforcing here.

20 CHAIRPERSON MITTEN: Okay. All right.
21 Thank you.

22 MS. McWOOD: Thank you.

23 CHAIRPERSON MITTEN: I had moved too
24 quickly passed government reports earlier, and I
25 understand Mr. Roy from OCTO is here, so we'll take a

1 step back and hear from Mr. Roy. Had you submitted
2 something, a written report, Mr. Roy?

3 MR. ROY: I will be, and I've got some
4 additional copies on the way down. I've got two
5 copies now.

6 My name is Peter Roy, and I work for the
7 Office of the Chief Technology Officer. My
8 responsibility right now includes several projects,
9 one of which is the improvement of the public safety
10 radio system here in the District of Columbia for the
11 public safety agencies, the police, fire, emergency
12 management, and others that are on our system.

13 I'll give a quick preamble, and then I'll
14 read a little bit from my letter. The issue is
15 coverage for public safety here in the district. We
16 actually have a coverage crisis, as far as public
17 safety folks are concerned, a crisis that is similar
18 to that which was experienced on September 11th in New
19 York when the firemen could not communicate properly,
20 leading to a significant negative outcome in that
21 case. So here in the district, we are working very
22 feverishly to improve the coverage.

23 We currently have four antenna locations
24 that we use to broadcast an 800 megahertz public
25 safety system, and the issue that I'm going to put

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1 forward has to do with the safety of the first
2 responders. It's important that we be able to
3 implement the system consistent with the health,
4 safety and welfare goals of the rules that Ms.
5 Steingasser was mentioning earlier. The safety of the
6 public is at stake, and there's another secondary
7 issue; and that is, if our project should happen to be
8 held up by any of our rules, there is a time limit on
9 the federal funds that we are using to implement this
10 project. We have to spend them by the end of the next
11 fiscal year or they'll be gone. And the federal
12 government was generous enough to give us over \$40
13 million towards this program, so it's very important
14 that we do get our system in, and get the funds
15 expended.

16 Now since I'm going to give you a copy of
17 the letter, I won't read it verbatim. I know there's
18 time pressures tonight anyway, but I'll read the first
19 paragraph, and then I'll just turn in the letter. I
20 think that's probably adequate.

21 CHAIRPERSON MITTEN: Thank you.

22 MR. ROY: "Our recommendation is that
23 because of the critical nature of the district's
24 public safety and emergency preparedness
25 communications, the Office of the Chief Technology

1 Officer strongly believes that the public interest
2 would be best served by exempting all government of
3 the District of Columbia public safety wireless
4 antennas, antenna towers and monopoles from, or be
5 allowed as a matter-of-right literal interpretation of
6 the regulations of the Zoning Commission."

7 And, you know, we're open to discussion
8 and working with folks to try and figure out what it
9 is we can do, starting from that premise, that we're
10 looking for relief from the rules. And I'd be glad to
11 talk to anybody about that.

12 CHAIRPERSON MITTEN: All right.

13 MR. ROY: Are there any questions?

14 CHAIRPERSON MITTEN: Any questions for Mr.
15 Roy? Mr. Parsons.

16 COMMISSIONER PARSONS: Mr. Roy, obviously
17 you're pretty far along with this project, if you are
18 going to expend the funds by the end of this fiscal
19 year, so what is it you intend to build? Can you
20 summarize that?

21 MR. ROY: Well, I think what I'm going to
22 do in order to clarify that, it occurred to me as I
23 was sitting in the audience that it would be helpful
24 for you all to see pictures of what it is our current
25 structure looks like, current structures, and what it

1 is that we envisage for the other locations.

2 We're going from four towers to ten, and
3 I use the term "tower" loosely. These are primarily
4 building attachments that we're using. They're
5 similar to what the cellular folks use in terms of how
6 they look. They're not exactly the same, so I think
7 a picture with dimensions and so forth would be useful
8 for you to be able to evaluate what I'm talking about.
9 But only recently, because we've been engineering the
10 system, have we settled upon the optimal locations in
11 order to achieve our coverage criteria, so now that
12 we're at that point, then we've got to move forward
13 with our location-specific designs. And that's why,
14 you know, we're getting a little bit worried because
15 of time constraints at this time, and we'd like to get
16 some relief.

17 COMMISSIONER PARSONS: Well, that would be
18 helpful because certainly rooftop -- now when you say
19 ten towers, I imagine ten of the towers that are out
20 at Georgia Avenue. Have you got anything on that
21 facility?

22 MR. ROY: Yes, that's one of our
23 locations.

24 COMMISSIONER PARSONS: I see. That's too
25 bad.

1 MR. ROY: That's one of our existing
2 locations.

3 COMMISSIONER PARSONS: Yeah, that was an
4 emergency too. You know, the reason we were given for
5 that was so that we could communicate with the buses
6 going back and forth to Lorton. Do you remember that?
7 And, you know, you wonder whether that's really needed
8 any more.

9 I don't know how we can do this. I mean,
10 the City Council has told us that all District of
11 Columbia activities should be in conformance with our
12 zoning regulations, so we'll have to think about this.
13 It's probably more of a legal issue than for us types,
14 but thank you.

15 CHAIRPERSON MITTEN: Anyone else for Mr.
16 Roy? I think Mr. May --

17 COMMISSIONER MAY: I do have one question.

18 CHAIRPERSON MITTEN: Don't leave us. Mr.
19 May was warming himself up.

20 COMMISSIONER MAY: I was trying -- slow
21 starting this evening. Sorry. On the one hand, the
22 letter is asking for a complete exemption, and yet
23 what you described doesn't seem like it's that
24 onerous. And, in fact, you know, with what you will
25 be able to show us, it seems like it's maybe not that

1 big a deal, so I'm wondering why you're looking for a
2 blanket exception for something that's not that big a
3 deal.

4 MR. ROY: Okay. Well, the reason is
5 simply that we are time constrained. And it's simply,
6 if I had a time guarantee regarding, you know, the
7 amount of time it would take to get things through the
8 process, that would be ultimately the goal, so the
9 best time guarantee is to get an exemption. Then I
10 know exactly what -- how long it's going to take.

11 Working backwards from there to make
12 everybody feel, you know, that we are approaching this
13 in a balanced way. That's why I'm keeping it simple
14 to start, and then we can take steps back from there
15 that balance what we're trying to do here.

16 COMMISSIONER MAY: So there may be some
17 other less drastic consideration that would help you
18 meet your goals.

19 MR. ROY: Yeah, the time is the driver.
20 Time is the driver.

21 COMMISSIONER MAY: It's complicated.
22 Okay. Thank you.

23 CHAIRPERSON MITTEN: Before you go. If
24 you're going to submit some pictures of what these
25 will look like, perhaps in light of Mr. Parsons

1 question, you would also submit the locations where
2 you intend to put these things --

3 MR. ROY: Absolutely.

4 CHAIRPERSON MITTEN: -- so we know exactly
5 what we're talking about.

6 MR. ROY: Right. Okay.

7 CHAIRPERSON MITTEN: Thank you.

8 MR. ROY: Thank you.

9 CHAIRPERSON MITTEN: All right. Anyone
10 else representing their ANC this evening, before we
11 move on? All right. Now we'll move to organizations
12 and persons in support, and I'm going to work off my
13 list of witnesses, and then we'll go to anybody who
14 hasn't signed up on the list thus far. Ann Loikow.
15 I guess we'll have panels of two this evening. Maria
16 Hughes. I'm going to ask for five minutes on the
17 clock, please. All right, Ms. Loikow, whenever you're
18 ready.

19 MS. LOIKOW: Hello. I'm Ann Loikow, and
20 I'm Second Vice President of the Cleveland Park
21 Citizens Association, and I wanted to thank you for
22 holding this hearing, and for all the work you all
23 have done, as well as the Office of Planning on this
24 issue. It is a very big and complicated issue, and
25 the citizens appreciate the effort that you're putting

1 into this.

2 I've given copies of my statement and some
3 attachments particularly dealing with tower collapse
4 that should have been passed around, as well as some
5 proceedings from the Berkshire-Litchfield
6 Environmental Council, which discuss and have some
7 good diagrams on a lot of the issues that you're
8 looking at, whether they be the environmental, how you
9 measure the radiation, some of the legal issues, just
10 how different areas have looked at a lot of these
11 issues.

12 I was a part of the task force, and I
13 really appreciated the work of the Office of Planning.
14 They had a lot of people there with a lot of different
15 views, and we discussed with some fervor from all
16 different sides how we felt about these issues.

17 The Cleveland Park Citizens Association is
18 basically very supportive of the final product that
19 the Office of Planning has produced. I think there
20 are a number of major improvements. First of all, the
21 fact that it's all in one chapter. You all know the
22 problems we've had trying to get the Commission's
23 order from 1989 codified properly, and in part, I
24 think that's because it was spread throughout the
25 zoning regulations, that you never saw all the pieces

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1 together to realize that some of them were there, and
2 some of them weren't.

3 I think also the fact that they've taken
4 the definition of antenna, and separated out the tower
5 and the monopole so that you can look at the different
6 kinds of structures and see specific requirements for
7 each one, rather than looking at them kind of mushed
8 together again should help in the evaluation of
9 different kinds of applications that you see or the
10 BZA sees, or the Office of Planning and the Zoning
11 Administrator, depending upon whether it's a matter-
12 of-right, special exception, et cetera.

13 We are very supportive of the provisions
14 on the new towers and monopoles, and the prohibition
15 of new towers and monopoles in residential districts
16 in R-C-1 neighborhood shopping areas. Virtually all -
17 -the C-1 I know of in the city is fairly slender sort
18 of strip mall, strip area so that it's not a very deep
19 or very big area to begin with. And that the special
20 exception process, which we tried so hard to get
21 implemented from what the Commission adopted back in
22 the 80s for all the rest of the districts, except
23 industrial.

24 We very much support, in addition, also
25 the issue of increasing the setbacks. You'll be

1 hearing from some other witnesses, so I won't go into
2 much detail on the whole issue of what setbacks do in
3 terms of protecting the public and property from
4 falling towers. The Office of Planning showed you one
5 picture of the problems of falling ice, from other
6 kinds of debris. And also, the issue about whether it
7 may be appropriate in some circumstances to look at,
8 besides just residences adjacent to a tower location,
9 the sort of kinds of things that are the equivalent of
10 a residence, such as a hospital or a nursing home, or
11 because children are much more susceptible to the
12 effects of radio, schools and looking at whether the
13 BZA should have the authority in some cases, depending
14 upon the actual unique site that's being proposed, to
15 increase the required setback above the one-to-three,
16 depending upon the actual configuration of the land
17 and the type of tower that's going to be proposed.

18 We support the provisions to require
19 applicants to certify that they are complying with the
20 FCC emission guidelines and the OSHA requirements, and
21 to actually provide their measurements. And we agree
22 that there should be actual field measurements for the
23 cumulative measurements at a site, given the fact that
24 the District of Columbia is a very urban site, very
25 built up, very complex in terms of its topography of

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1 the buildings and landscapes, trying to do accurate
2 simulizations of what the affect of all the different
3 antennas that are located in all of our sites, because
4 we have multiple antennas. It's not a case of just
5 one antenna out in a field by itself. It's a very
6 complex electronic environment.

7 You really need actual measurements to
8 have a sense of what the levels are in an area, and
9 whether they comply when you add whatever the new
10 antenna or antennas being proposed for a particular
11 location.

12 We agree with ANC-3C that the regs should
13 be amended to require that applicants for towers or
14 monopole provide information on the maximum capacity,
15 and numbers and types --

16 CHAIRPERSON MITTEN: You're up now.

17 MS. LOIKOW: Oh, it goes fast. Numbers
18 and types of -- anyway, you can read the statement.
19 I think it's fairly detailed, and if you have any
20 questions, I'll be happy to answer them.

21 CHAIRPERSON MITTEN: Okay. Before we go
22 to Ms. Hughes, and we're going to ask the questions of
23 both people after you both testify, our witness list
24 has gone missing. Does someone have it? Did someone
25 take the witness list off the table? It was never

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1 there? No witness list. Okay. Well, no one is
2 fessing up to it, so we'll just have to work with what
3 we have. Okay. I'm sorry. Ms. Hughes.

4 MS. HUGHES: Madam Chairman, ladies and
5 gentlemen, good afternoon, or good evening.

6 CHAIRPERSON MITTEN: Good evening.

7 MS. HUGHES: I am Maria Hughes living in
8 2400 Virginia Avenue, N.W., Apartment C-501,
9 Washington, D.C. 20037. I will testify for the
10 Columbia Plaza Tenant's Association. I am an author
11 of three books entitled, Computer, Antenna, Cellular
12 Telephone and Power Lines Health Hazards, published in
13 1966. I have been delivering lectures in this country
14 and abroad for about 14 years.

15 This bill is an improvement over the
16 previous one. My comments are not critical, but
17 suggestions to the existing text. I will comment on
18 the aspects of public health of communication
19 services.

20 The text of the regulation is an outgrowth
21 of a participatory process, and it is pretty good.
22 The proposed amendments seek to protect public health
23 and safety, and provide flexibility. It is a step in
24 the right direction. I wish to make the following
25 comments, and then I have gone section by section.

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1 2601.1, Section C, add "More assurance that Board of
2 Zoning Adjustment considers antenna location on public
3 health and safety", and add, "Office of Planning
4 report to examine affect on health and safety and
5 cumulative effect on these antennas." Too little is
6 known as to the affect of the health and the welfare
7 on the population. There might be a very serious
8 health effect. 2601.2, Section C, add, "All sites
9 already in existence", add, "The existing radiation
10 within certain distance", add, "Uniform distance for
11 cumulative effects measured."

12 2602.1, add, "Potential renewal of
13 existing broadcasting antenna", add, "Time limit five
14 years, or maximum ten years. Renewal of antennas
15 should be five year limit. Every five years antenna,
16 particularly the transmitting antenna should be
17 reviewed for the impacts." There may be no impact
18 when the antenna is installed. However, after five
19 years it should be examined to determine if there may
20 be, and continue to be no impact.

21 2603.1, Section G, extend to the entire
22 city why only in center employment area. It should be
23 in other areas, such as Rock Creek Park, Northeast
24 Washington and other.

25 2603.1, Section J, the antenna

1 installation shall be as small as it is practical for
2 its intended use. How will this be demonstrated? Who
3 is going to make the judgment, Office of Planning,
4 which does not have the experience, Board of Zoning
5 Adjustment, or engineering consultant?

6 2604.1, Section C-2, Any public park or
7 public open space within at least two miles, not one
8 quarter. 2604.1, Section C-3, add, "Any historic
9 landmark stretch or site within at least two miles."
10 2604.1, Section E-2, "Transmitting antenna shall be
11 oriented such that transmission is not directed at the
12 recreation space." How will this be demonstrated?

13 CHAIRPERSON MITTEN: Excuse me. You have
14 about two minutes left, and you're not going to get
15 through all these. You want to hit some of the
16 highlights for us?

17 MS. HUGHES: I will try. I have spent lot
18 of work.

19 CHAIRPERSON MITTEN: Oh, and we will
20 absolutely read this.

21 MS. HUGHES: And I will just read as much
22 as I can, and it's fine with me.

23 CHAIRPERSON MITTEN: Okay.

24 MS. HUGHES: 2604.1, Section F-1,
25 "Constructed of material and colors that", add,

1 "harmonize." 2604, Section F-2, "Located to reduce
2 its visibility for public space to the greatest
3 practicable extent", determined by whom, applicant,
4 Board of Adjustment, or Board of Zoning?

5 2605, Section B-2, change one-quarter mile
6 into one mile. 2605.1, Section B-3, add, "Any
7 historic landmark stretch or site within one mile."
8 2605.1, Section F, "To avoid off-site reception
9 interference." What does this mean? Who will ensure
10 that it is the case, to see that it is done?

11 2606.1, Section A. What does it mean?
12 Broadcasting antennas are exempted. Are T.Vs to the
13 antennas exempted?

14 2607.1, Section B. Who will determine the
15 appearance of antennas or monopoles which will not
16 have an adverse impact?

17 2608, this section should include review
18 on the time limit, and also review period.

19 2611.3, Section D, take out C-R. So that
20 not permitted in residential, in C-R residential upper
21 floors, should not be allowed as matter-of-right.
22 Commercial, but not in C-R residential. 2611.4,
23 Section B, add "maximum", to read, "designed and
24 available for maximum co-location by other providers."

25 CHAIRPERSON MITTEN: That's it.

1 MS. HUGHES: Thank you.

2 CHAIRPERSON MITTEN: This is terrific
3 because we -- you should read all of our proposed text
4 amendments because sometimes we need someone to go in
5 and say who's going to determine this, and what's the
6 practical effect? So we're very appreciative, and I'm
7 sure that Mr. Parsons takes note of the fact that you
8 latched onto greatest practical extent as he did. So
9 let's see if the Commission has any questions. Any
10 questions for these folks? Any questions?

11 Ms. Loikow, I wanted to ask you, in terms
12 of frequency of field measurements, just when the
13 permit is issued, or did you have something --

14 MS. LOIKOW: Well, it sort of depends upon
15 what it is you're talking about. The way the
16 regulation is set up right now is, the applicant would
17 -- in order to get approval on the permit to put in an
18 antenna, have to show what the cumulative site levels
19 are at the -- before they add their antenna, and what
20 their antenna would add, and show that they'll
21 basically be within the FCC limits.

22 CHAIRPERSON MITTEN: Right.

23 MS. LOIKOW: So they have to do it when
24 they put the antenna in. What I proposed farther on
25 in my testimony is that when you look at towers and

1 monopoles, particularly when you may have more
2 capacity than you have at the time that they're
3 originally built, that the tower owner or monopole
4 owner be submitting periodic reports about what's on
5 the tower as things are added. And then as they're
6 added, you get measurements of what the cumulative is
7 at that site.

8 CHAIRPERSON MITTEN: Okay. So there would
9 be a periodic report when there's towers or monopoles.
10 And then at the time -- I mean, since someone would
11 have to, if they're installing an antenna, they make
12 a representation based on the technical aspects of it,
13 and then they back that up with after it's installed,
14 that they do a field measurement to say yeah, in fact,
15 it's reading the way it's supposed to.

16 MS. LOIKOW: Yeah. The one place where I
17 did suggest sort of an after field measurement was on
18 the rooftop recreation areas, that they actually be
19 required to submit a field measurement from the
20 recreation area of what affect the antenna had, if
21 any, on that recreation area, because that will be in
22 probably fairly close proximity, and I think that's
23 something we should look at little bit more closely
24 at.

25 ON the towers and the monopoles, you're

1 basically getting a cumulative prior to the time they
2 add the antenna, and you're getting what they say from
3 the design characteristics the antenna will add, and
4 see that that's within the overall allowed amount for
5 that site.

6 CHAIRPERSON MITTEN: I'll probably get
7 answers to this from other folks too, but I'll start
8 by asking you. Do antennas have a -- when they're
9 turned on do they have like manufacturer's warnings,
10 like don't stand next to this, or don't stand within
11 X feet of this thing? Humans shouldn't be -- I mean,
12 do they have -- are there any antennas that are so
13 powerful that you shouldn't stand next to them?

14 MS. LOIKOW: Oh, there are.

15 CHAIRPERSON MITTEN: Okay.

16 MS. LOIKOW: And I'm sure there are
17 different kinds of warnings, and there are different
18 kinds of signs that go up, either on the antenna, or
19 around the site, or the key people in a certain
20 direction from them. I'm sure the industry people can
21 tell you for their particular types of antennas what
22 the requirements are.

23 CHAIRPERSON MITTEN: Okay. Anyone else
24 have any questions? Thank you, ladies. Dorothy
25 Miller. Richard Wolf. Mrs. Miller is going to have

1 three minutes, whenever you're ready.

2 MS. MILLER: Good evening. My name is
3 Dorothy Miller, and I'm ANC Commissioner for ANC-2A05,
4 and I live at the Diplomat Apartment in Columbia Plaza
5 Complex. And I've got just a couple of pictures, I
6 didn't have time to make more, showing the roof of the
7 building in which I live. And what I did after some
8 of the meetings that we had at OP, I went with one of
9 the members of FCC who came down to my building with
10 the equipment necessary to check that all these
11 antennas were not injurious to the people living
12 below, because I live below them. And he found that
13 they were reasonably all right, and the other thing is
14 they just look bad.

15 They also went -- they're owned by the
16 A.T.&T. Company who went to the Commission on Fine
17 Arts to ask to put up an additional antenna, and found
18 that they didn't have permits for any of the ones they
19 already put up, so it seems that nobody issues permits
20 for those things. And the -- one of the things that
21 is a problem that tomorrow in court is the antenna
22 from Tenley Circle at 9:30 in the Court of Appeals.
23 And the interesting thing, when the Zoning
24 Administrator went to the Corporation Counsel, they're
25 not really qualified to answer those types of

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1 questions, who gave them the permission, because as
2 you know, their records had been messed up when they
3 were supposed to have been first turned in. And the
4 law requires that the agency, when issuing a permit,
5 send a copy to the ANC whose area is affected, as well
6 as to the single-member district concerned, and the
7 D.C. Code 2-0261(b) and (c) requires that this be done
8 not after the permits are approved, but when they're
9 requested. In Public Law 93-198, the D.C. Self-
10 Government also covered this requirement. And, of
11 course, it's not being done and isn't being done.

12 And I'd like to go on to say, because time
13 is of the essence, that there are currently two areas
14 that ANC-2A, the Red Cross building is moving all of
15 their communication equipment from Tyson's Corner down
16 to the 2800 block of E Street. That's only a block or
17 two from the White House, and it's going to be an
18 enormous amount of equipment. And I don't know who's
19 checking, what they plan to put in there. And George
20 Washington has opened its media center, and they're
21 having these public programs going on there that are
22 broadcast all over, and I don't think anybody has
23 checked the emissions from that particular place. And
24 I would like to see the Office of Planning do a check
25 as to whether or not they're within the guidelines.

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1 And I want to compliment the staff of OP,
2 and particularly Jennifer Steingasser, who stood up so
3 notably against the pressures of the telecom companies
4 and the cellular phone people. The District and the
5 Office of Planning are indeed lucky to have found her,
6 and to have her on the staff at this time, and I'm
7 grateful. Thank you.

8 CHAIRPERSON MITTEN: Thank you very much.
9 Hey, hey, there. Mr. Wolf.

10 MR. WOLF: Thank you. I'm Richard N.
11 Wolf, Chair of the City Planning Committee of the
12 Capitol Hill Restoration Society, and I've been
13 authorized to offer the following views.

14 As a first matter, we wish to extend our
15 gratitude to the Commission, Ms. Ann Loikow of the
16 North Cleveland Park Citizen's Association, Ms.
17 Jennifer Steingasser of the Office of Planning for
18 their efforts in coming to grips with this complex
19 matter. And we particularly applaud the Commission
20 and the Office of Planning for having a number of
21 informal sessions to sort out the issues, and come to
22 a proposed resolution. And in this regard, we wish to
23 associate ourselves with the excellent testimony of
24 Ms. Loikow.

25 In particular, we wish to endorse the

1 supplemental report of the Office of Planning of
2 October 3 of this year, regarding changes in Section
3 1200 et seq., which is the zoning regulation dealing
4 with the Capitol Interest District. These changes
5 enlarge the restriction on uses to include antenna,
6 and they are clearly within the intentions of the CAP
7 District as spelled out in the regulations.

8 Also on the supplemental report, we
9 endorse the proposed removal of regulations, but we
10 support Ms. Loikow with respect to strengthening the
11 so-called Stealth antenna proposals.

12 As we read the proposals before us, they
13 deal with a series of issues requiring some kind of
14 control through land use regulation that doesn't
15 entrench on rights granted the communications industry
16 through the Congress. We believe that such a balance
17 has been achieved through a process of clarification
18 of definitions, how the section in the zoning code is
19 going to be organized, and a greater understanding,
20 most particularly of the antenna world itself.

21 In this respect, the proposals recognize
22 that antennas are visually disruptive, can even be --
23 can have great physical intrusions on land and
24 surrounding neighborhoods, that there are potential
25 and actual harms associated with the different kinds

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1 of signals and radiation being given off by these
2 devices. And I want to also add, you have no control
3 over this, but it took many years for the tobacco
4 problems to come to light through many, many, many
5 studies. The same is true with respect to hormone
6 replacement, and it's going to be true of a lot of
7 environmental issues, and a lot of issues in which
8 things are introduced into our bodies, and we're not
9 sure what happens over the long, long term. And I
10 would hope that the Commission and the district
11 government would keep itself aware of these changes.

12 I also want to say that as a result of my
13 having been a lawyer at the Space Agency for many
14 years, and having worked on some of these antenna
15 issues, and power issues, and so forth, this
16 technology has undergone enormous change, and is
17 continuing to enormously change. There may well be a
18 day when antennas will be obsolete frankly, that you
19 will be able to broadcast everything from a satellite,
20 could have uplink through small devices, which they're
21 very powerful power choices and chips that would allow
22 people to do things that are now only permitted
23 through the antenna systems. But this is a very
24 rapidly changing area of the world, and that's why
25 going back, having the Commission go back and review

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1 what's going on, and review the situation on a
2 periodic basis is important.

3 I want to impose a regulatory dilemma for
4 you, and this was raised earlier about the small
5 dishes that don't get permitted or are all over
6 people's houses and defacing things. I think with
7 respect to this matter, that there should be a
8 register kept of all the permitted antennas, and I
9 don't think it should be kept by DCRA, frankly. I
10 mean, all of us who have had experience with DCRA know
11 what a broken governmental agency it is.

12 And frankly, since much of the permittings
13 will be done through special exception, I think the
14 logical place for this registry would be the Office of
15 Zoning, frankly. It would be open to the public, and
16 everybody could see how many of these things are,
17 where they are, and what their size is, and what the
18 readings on RF emissions and other things are
19 concerned with. And I think the Office of Zoning,
20 from my experience with them, is operating at a very
21 high level, as opposed to perhaps some other district
22 agencies.

23 I conclude this testimony by again saying
24 we generally endorse what the Office of Planning is
25 proposing, with the addition of changes of language

1 proposed by Ms. Loikow. We understand that this issue
2 will be a continuing matter before the Commission, not
3 all continuing and on your plate forever, for you who
4 are now Commissioners, but periodically you will have
5 to review it. And I thank you again for your
6 consideration of this matter.

7 CHAIRPERSON MITTEN: Thank you, Mr. Wolf.
8 Any questions for Mr. Wolf or Mrs. Miller?

9 MS. MILLER: May I add one thing?

10 CHAIRPERSON MITTEN: As long as it's
11 brief.

12 MS. MILLER: It is brief. From FCC
13 brought down a camera. He was amazed at how many
14 apartments off of our plaza have these little dishes
15 all over the things, and he took pictures of them. He
16 was just absolutely flabbergasted.

17 CHAIRPERSON MITTEN: Thank you. I didn't
18 see Chris Weiss. Is Chris Weiss? For Friends of the
19 Earth. All right. And Diane Pecor. Whenever you're
20 ready, Ms. Hogan.

21 MS. HOGAN: Okay. Good evening, Chairman
22 Mitten, and other members of the Commission. My name
23 is Sheila Hogan, and I reside at 3203 38th Street,
24 N.W. I am pleased to come here as a resident of the
25 District of Columbia, and as a representative of

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1 Friends of the Earth.

2 Friends of the Earth is dedicated to the
3 health and well-being of District residents and the
4 District's natural environment. Through our D.C.
5 environmental network, we are working towards a city
6 where the air and water are clean, schools, homes and
7 work places are toxic-free, and parks and waterways
8 are attractive places for recreation and for wildlife.

9 Friends of the Earth commends the Zoning
10 Commission for tackling the difficult task of revising
11 the rules governing antennas, antenna towers and
12 monopoles. We particularly applaud the general
13 principle of certifying compliance with FCC
14 regulations concerning the cumulative radio frequency
15 radiation on a site before permitting installation of
16 a new antenna.

17 We feel that these regulations can be
18 improved slightly, however. Our comments are as
19 follows. We oppose the special exceptions related to
20 Stealth structures, and that's both the proposed
21 language in 2606, and then other related references to
22 self-structures in different citations.

23 We would like to encourage the hiding of
24 all antenna-holding structures, but not at the expense
25 of sensible regulation designed to protect the

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1 character and health of our neighborhoods.
2 Furthermore, we feel that the proposed alternate
3 language is too vague to be adequately enforced by
4 D.C. officials, e.g., who is to decide whether a self-
5 structure is not out of scale with the subject
6 property, or whether the proposed structure provides
7 adequate screening of the antennas?

8 Secondly, we encourage the broadening of
9 restrictions on antenna towers and tower monopole
10 placement. There are restrictions on placing
11 broadcast towers on towers and monopoles in or close
12 to residential neighborhoods, but we feel that this
13 should be extended to certain public or institutional
14 zoning categories and uses, such as schools, nursing
15 homes and hospitals.

16 As you know, radio frequency emissions
17 vary, and could at times exceed FCC guidelines, even
18 after the initial certification, and that's despite
19 the processes outlined in 2601.2. These institutions
20 should be particularly sheltered from excess
21 exposures, as our children and elderly are the most at
22 risk for developing Leukemia and other rare cancers
23 potentially due to the genetic effects, the genetic
24 changing effects of radio frequency emissions.

25 Thirdly, we feel that permits should have

1 a finite life. As per the NCPC guidelines related to
2 federal property, antenna permits should be not in
3 perpetuity, but should rather expire to encourage
4 their regular removal and replacement as technologies
5 evolve.

6 NCPC requires a five-year review of all
7 permits for antennas on federal property. And while
8 we understand that the city has objected to the five-
9 year review because of the potentially excessive
10 regulatory burden, how about a seven to ten, or seven
11 or ten year review? Without this kind of review, we
12 could end up with numerous under-utilized towers and
13 antenna cluttering up our city in ten to twenty years
14 time, with no requirement for dismantling, or
15 maintaining, or altering such structures.

16 I also would add that we should have the
17 capacity to revoke such permits if the cumulative
18 radio frequency emission in a given area is found to
19 be in excess of FCC guidelines.

20 We recommend that setting a maximum insult
21 capacity, as mentioned by ANC-3C and others, maximum
22 insult capacity should be put in place for antenna
23 towers and monopoles. We feel that it is prudent to
24 require that antenna towers, monopoles and other
25 structures while hold antennas get up front maximum

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1 installed capacity certifications. These maximum
2 limits could be broken down by antenna category, for
3 instance, high definition, television, regular T.V.,
4 radio, cell phones, et cetera, as determined by the
5 design of the antenna or monopole.

6 Up front limits would help, although not
7 ensure, that both city agencies and our neighborhoods
8 can help prevent that towers built on speculation are
9 not of a size which would lead to excessive radio
10 frequency exposures to nearby residences, schools, and
11 the neighborhoods as a whole once the towers are fully
12 occupied. Against the way that the regulations are
13 written now, it focuses on initial occupancy of a
14 particular structure, on initial antennas that are
15 being proposed to be put in, but if a tower is built
16 on speculation at larger size, I think that this could
17 be a concern.

18 CHAIRPERSON MITTEN: Can you close it out
19 for me? You've got only a few seconds.

20 MS. HOGAN: Yes. No, I mean you could
21 read the rest of the stuff that I have on here.

22 CHAIRPERSON MITTEN: Okay.

23 MS. HOGAN: Thank you very much for
24 considering our points, and approving these very
25 important regulations.

1 CHAIRPERSON MITTEN: Thank you, Ms. Hogan.
2 Ms. Pecor.

3 MS. PECOR: Thank you for this opportunity
4 to comment on the business before us this evening. I
5 make my comments --

6 CHAIRPERSON MITTEN: Would you just
7 identify yourself for the record? Somehow it doesn't
8 work when I acknowledge people.

9 MS. PECOR: I'm Diane Pecor, and my next
10 sentence would have said I'm speaking on behalf of the
11 Zoning Subcommittee of the Committee of One Hundred on
12 the Federal City, the District's oldest citizen
13 advocacy organization for planning and preservation.

14 There is much to praise in these proposed
15 regulations, not least of which is they stem from a
16 serious, a real participatory process, and evidence
17 careful attention to balancing goals, city-wide
18 coverage for telecommunication services, and
19 protection of public health and safety.

20 We believe several points that will
21 facilitate the District's ability to monitor actual
22 adhere to the regulations and to ultimately propose
23 remedies for non-compliance deserves special
24 attention.

25 First, this text amendment clears up much

1 of the confusion that existed in the earlier
2 regulations, and defines the territory by providing
3 separate definitions.

4 Second, the previous scatter-shot of
5 antenna regulations has been replaced by a new Chapter
6 26, in which all the antenna regulations have been
7 consolidated, something citizens especially will
8 appreciate.

9 Third, a business that intends to install
10 a transmitting antenna will be required to include
11 with its application for a building permit, a
12 certification letter from a licensed engineer
13 verifying that the antenna complies with FCC and OSHA
14 standards. This certification amounts to being the
15 first step in the District's ability to monitor
16 radiation levels, and to enforce regulations about
17 them.

18 Fourth, overall the regulations for new
19 towers and monopoles have been substantially
20 strengthened. They would be allowed as a matter of
21 right only in industrial zones, not at all in
22 residential or neighboring shopping districts, and
23 only as special exceptions in other districts.

24 To recap, what's good and right about the
25 proposed regulations is they go a long way toward

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1 cleaning up the visual clutter towers present,
2 particularly important in historic districts, toward
3 protecting the public health, and eliminating the
4 dangers to safety that exist under current
5 arrangements.

6 We would recommend, however, that the
7 Commission amend several parts of these proposed
8 regulations. Each of the changes we recommend would
9 provide shelf life to the proposed regulations, and
10 would demonstrate that fixes require long term
11 monitoring and attention, not one time action. One,
12 the District should require that an applicant who
13 seeks to erect an antenna tower or monopole submit a
14 maintenance plan with its application. The plan
15 should include a maintenance schedule, specific
16 details about ice build-up prevention, and
17 instructions about how the owner proposes to protect
18 the public from falling debris. The regulations
19 should empower the BZA to expand required setbacks, if
20 that is what is needed to protect the public from
21 falling debris.

22 Two, the District should require an
23 antenna tower or monopole applicant to provide a
24 complete description about the tower or pole,
25 especially detail that identifies the unit's maximum

1 capacity, the generic type of antenna it will hold,
2 and its estimated radiation emissions when filled to
3 capacity.

4 Moreover, the District should require the tower owner
5 to file regular and periodic reports about these
6 matters once the tower or pole is constructed.

7 Three, while it may appear early to
8 address conditions for renewal, the District should
9 now determine what kinds of information it needs prior
10 to renewal consideration, and under what conditions it
11 will renew an application. For many reasons,
12 including potential technological change, we would
13 suggest the Zoning Commission limit antenna permits
14 for a set period of time, preferably somewhere between
15 five and ten years.

16 We have welcomed the public process that
17 generated these proposed regulations, and stand ready
18 to work with the Zoning Commission and others to
19 produce, monitor and enforce strong antenna
20 regulations. Again, we appreciate this opportunity to
21 testify.

22 CHAIRPERSON MITTEN: Thank you. Any
23 questions? I just had one question, Ms. Pecor, on the
24 second page, number one, where you're recommending
25 that there be a maintenance plan, and how the owner of

1 the antenna is going to deal with falling debris,
2 whether it's ice or something else. Isn't that a bit
3 redundant with having the setbacks, because I mean,
4 while no one is in favor of things falling of these,
5 I mean, ice I think is to be expected, that it would
6 fall off in some quantity. Why do we need to know how
7 they're going to handle it, if we've already sort of
8 set aside a safe area where people won't be walking?

9 MS. PECOR: I think only because some
10 people don't pay attention to what the limitations
11 are. I, for example, live along railroad tracks,
12 which is also an area that things like this are likely
13 to be erected. But people don't -- I mean, there's
14 clearly places where people are not supposed to walk,
15 but it's part of the general thinking that needs to be
16 done about what you need to protect for. It may be
17 that you don't do one and two, you only need one, but
18 I think that we're not there yet, and we need to
19 anticipate problems.

20 CHAIRPERSON MITTEN: All right. Anybody
21 else? Thank you both. I just want to make sure that
22 the next proponent on my list is a proponent, Joseph
23 Bush, for Verizon Wireless. Are you a proponent? An
24 opponent. Okay, sir. I just didn't know that you
25 were breaking ranks with your colleagues. Peter

1 Espinshied. Anybody else to testify in support?
2 We'll take you, sir, come down, and then we'll get the
3 rest of the folks because we only have room for two.

4 Mr. Espinshied, is this an association?
5 It says National Cathedral Neighborhood.

6 MR. ESPINSHIED: Neighborhood Association.

7 CHAIRPERSON MITTEN: Association. Okay.

8 MR. ESPINSHIED: Yes.

9 CHAIRPERSON MITTEN: Go ahead.

10 MR. ESPINSHIED: I am Peter Espinshied.
11 I'm speaking in behalf of the National Cathedral
12 Neighborhood Association, a community of residents who
13 live in the vicinity of the Washington National
14 Cathedral.

15 We strongly support the proposed new order
16 on antennas and towers, subject only to certain
17 recommendations that will make, which we believe are
18 in accord with the spirit and intention of the
19 proposed order.

20 First, we have the highest praise for the
21 act of gathering all zoning provisions about antennas
22 and towers into one chapter. As everyone knows, the
23 city's most traumatic encounter with this subject and
24 the ongoing litigation that has followed from it would
25 have almost certainly been avoided if this unified

1 compilation of regulations had been done from the
2 beginning.

3 Parenthetically, it should be noticed that
4 there are many other important subjects which are
5 dealt with in widely scattered parts of the zoning
6 regulations. It would be beneficial to all users of
7 the regulations if a thorough professionally prepared
8 index to the zoning regulations were developed and
9 made a part of the regs.

10 Another valuable and important part of the
11 proposed text amendment is the set of provisions that
12 are intended to assure compliance with the FCC's
13 guidelines for radio frequency radiation, a matter
14 that is absolutely essential in protecting the safety
15 and health of residents. However, the provisions in
16 Section 2601 regarding the certification of compliance
17 with the RF guidelines need to require actual field
18 measurements of the RF levels due to existing
19 antennas.

20 Experience with this issue will show that
21 in the dense urban environment, a calculation based on
22 modeling the field from the positions and
23 characteristics of the emitters is hopelessly
24 inadequate to produce the needed information. It is
25 impossible to accurately model the effects of

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1 reflection and echoing from a variety of buildings
2 services arranged in a complex and irregular urban
3 geometry. There is no meaningful substitute for real-
4 world measurements.

5 With regard to the issue of D.C.'s
6 enforcement of the federal guidelines, we want to
7 point out that the FCC itself has, for all practical
8 purposes, no capacity to enforce its own radiation
9 guidelines, and no federal law enforcement agency does
10 so, even though they theoretically could. So if D.C.
11 does not require the actual measurements and ensure
12 compliance, no one will.

13 We also urge that all special exceptions
14 granted for antennas and towers be limited in time,
15 perhaps to periods of five or six years. Both for
16 economic reasons and because of technological
17 developments, the justification and necessity for
18 towers and antennas needs to be periodically reviewed.
19 Also, when an applicant seeks a renewal of the special
20 exception, he should be required to provide the field
21 measurements demonstrating again compliance with the
22 FCC RF guidelines, but this time such measurements,
23 unlike the measurements for the original application,
24 will include the contribution of the antennas for
25 which renewal is being sought.

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1 Another important gain for the public
2 interest in the propose text amendments is the
3 increase in required setbacks. In addition to the
4 obvious aesthetic benefits, this will also provide the
5 important benefit of augmenting public safety through
6 protection from collapse and from falling objects.
7 However, we suggest that in addition to this, tower
8 and monopole applicants should be required to include
9 maintenance plans in their application, including how
10 they will prevent ice build up, and how they will
11 protect the public from falling ice and debris,
12 including birds killed by collision with structures.

13 In this connection, I'd like to point out
14 in response to some previous dialogue, that wind can
15 carry ice and, therefore, setback isn't a complete
16 solution to the problem of ice fall. One of the
17 relatively expensive but effective ways to deal with
18 ice build-up is by heat, which is done with rails and
19 with other structures in which it's necessary to
20 prevent it. And also, of course, the setback does not
21 ensure that people won't wander onto the property.

22 Lastly, we believe that an important
23 benefit of clarity would be achieved by including in
24 the text amendment a provision that if an application
25 is made for a permit to erect higher than the limit of

1 the Act of June 1, 1910, it shall not be presumed that
2 the mayor's authorization for an exception has been
3 given unless there is a separate document signed by
4 the mayor specifically authorizing an exception to the
5 height limitation. Thank you.

6 CHAIRPERSON MITTEN: Thank you, Mr.
7 Espinshied. And can you tell me who you are? You
8 need to turn on the mic.

9 MR. COOPER: My name is Timothy Cooper.
10 I'm the President of the Stop-the-Tower Coalition.

11 CHAIRPERSON MITTEN: Thank you.

12 MR. COOPER: We very much appreciate the
13 significant improvements that have been proposed by
14 the Zoning Commission in Case No. 01-02, and very much
15 welcome your stewardship on this vital issue that has
16 important implications for the health and safety of
17 the entire community.

18 The strengthening of these regulations
19 with regard to the placement of new towers and
20 monopoles is particularly welcome, and we salute you
21 for disallowing towers in residential and neighborhood
22 shopping districts, and support the fact that towers
23 and monopoles will be permitted only with a special
24 exemption in C-2 through D-4 districts, among others.

25 Furthermore, we are delighted that they

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1 are a matter-of-right only in industrial areas. This
2 certainly makes sense, and we applaud you for these
3 very excellent judgments.

4 Further, we commend your decision to
5 double the setback requirements for towers, and in the
6 case of large towers, to increase the minimum distance
7 from each lot line to one-third the total mounted
8 height of the tower. The public safety implications
9 of this action are simply enormous.

10 Perhaps most importantly, your decision to
11 require certification by a licensed engineer in the
12 application process, demonstrating that the antenna
13 will comply with FCC radiation guidelines and OSHA
14 standards is particularly prudent, especially because
15 the application must now include information on the RF
16 radiation to be generated by the antenna, and the
17 cumulative, underscored cumulative RF radiation
18 generated by all other antennas at the site, and
19 within a perimeter of 200 feet.

20 Without this provision, of course, the
21 District will not have the necessary information to
22 monitor standards, and enforce appropriate radiation
23 levels, so this is all very good news for communities
24 throughout all of Washington. And on behalf of the
25 Stop-the-Tower Coalition, I thank you for your

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1 leadership in this vital area.

2 Stop-the-Tower Coalition supports,
3 however, a number of other recommendations that have
4 yet to be included in the new antenna regulations. We
5 believe that in order to make the District's
6 regulations as progressive and protective as possible,
7 we ask you to consider the additional recommendations
8 that have been listed in detail in an annex that I
9 attached to this testimony. These deeper
10 recommendations mirror some of the safeguards that
11 have been put into place in other metropolitan
12 communities around the country.

13 In light of time considerations, I will
14 mention only three of these recommendations. We
15 recommend that Section 2006, compliance provision,
16 should call for actual field measurements. I think a
17 number of people have addressed this significant
18 point, so I don't want to hammer that home too much
19 more; that is, field projections as opposed to
20 computer simulations.

21 That two, any new application for antenna
22 towers should require the applicant to inform the
23 public about the maximum capacity of the tower and
24 monopole, a very important idea. The Tinley Town
25 Tower, for instance, was projected to have a sum, I

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1 think it was 160, 180 new antennas. Well, it could go
2 up to 250. There's a large differential between those
3 two, so it's important to know what the maximum
4 potential is.

5 This, obviously, is important to know this
6 number because this information would permit the BZA
7 and the OP Zoning Administrator to make a judgment as
8 to whether or not the size was appropriate for a
9 proposed purpose, and would allow the BZA or OP Zoning
10 Administrator to cap the number of antenna on any
11 given tower.

12 Moreover, the tower owner should be
13 required to, as other people have said, file these
14 periodic reports listing the types of antenna on each
15 tower, and to monitor and provide timely information
16 about the cumulative RF radiation being generated the
17 site by all of the antennas.

18 Finally, antenna tower and monopole
19 applicants should be required to detail how they
20 intend to protect the public against the build-up of
21 ice. I think you mentioned the point about well, if
22 the setback is sufficient, haven't we protected the
23 public? Well, at WTTG Television Station, for
24 instance, the towers are set back but they have
25 tremendous problem with falling ice hitting cars and

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1 breaking windshields. People are susceptible to the
2 kill factor, you know, from that. I think Silver
3 Spring -- the towers in Silver Spring have the same
4 kinds of problems, so in sum, we want to thank you
5 again for your true visionary leadership on this issue
6 for protecting the public, and doing the good job that
7 you have been doing for all these months. Thank you.

8 CHAIRPERSON MITTEN: Thank you. And did
9 both of you submit your written testimony, are you
10 going to? All right. Any questions? All right.
11 Thank you.

12 MR. COOPER: Thank you.

13 CHAIRPERSON MITTEN: I know there was one
14 hand in the back row that went up. Anyone else in
15 support? Come on forward. Are you Mr. Tannenwald?
16 I thought that was right. You're mistakenly down on
17 my list as an opponent, so I'm going to change that.
18 I remember you from the roundtable.

19 MR. TANNENWALD: Right. I've been here
20 once before. Thank you. My name is Peter Tannenwald.
21 I'm a resident of the District. I'm an attorney. I
22 represent and work with people who own towers, lease
23 towers, pay for towers, make money on towers, love
24 towers and hate towers, so I see a lot of the things
25 that go on.

1 I thought that I would try to contribute
2 a little bit tonight by trying to think of some things
3 that maybe you didn't think of, and a lot of the
4 things that I thought of have already been mentioned.
5 It seems to me that towers have at least three
6 aspects. We have to look at them, they radiate
7 energy, and things fall off of them. And some of the
8 things you do to cure one thing, don't cure the other
9 things.

10 For example, if you tell everybody to make
11 the tower shorter, the antenna is nearer to the people
12 and it radiates more. If you -- and those things
13 become a problem. There are lights on towers. They
14 aren't only during the day, they're at night. And
15 strobe lights are very fashionable now, and they
16 should point up so the airplanes see them, and not
17 down so that people at the street see them, and I
18 don't think there's been a lot of attention to that.

19 A lot of people have mentioned the
20 totality of radiation. That's very important. The
21 FCC doesn't pay much attention to less than 5 percent
22 of the limit. And, of course, if you have less than
23 1 percent of the limit in 200 antennas, you're over
24 the limit. I just answered -- the FCC actually went
25 out and inspected a tower in a different state a few

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1 weeks ago, and they wrote to a couple of my clients
2 about it, and our answer was we're under 5 percent.
3 Make somebody else fix it. Now I don't know if we
4 should be able to answer that way, but somebody has to
5 mind the store.

6 Keep in mind that when you're regulating
7 dishes, there are FCC regulations that mean that you
8 must allow people to receive satellite television
9 programming, and some of those dishes on apartment
10 balconies and so on are things that you cannot
11 restrict.

12 Time is running short, so let me just try
13 to answer a few of the questions that I heard tonight
14 that may not have been answered. I gave a little
15 written statement. It can stand on its own.

16 Mr. May asked how many more towers are we
17 going to have? We have enough providers already. The
18 answer to that is that the more intensity of use will
19 require smaller cells and more towers. You don't need
20 more providers, but if you have more customers where
21 people are downloading video, or playing games or
22 whatever they're doing, you will have a demand for
23 more towers.

24 Ms. Mitten, you asked whether it's this
25 agency's job to enforce FCC guidelines. The answer is

1 no, but they are a tool that you can use to protect
2 the public. You should look at them as a shield and
3 a tool you can use, rather than a mandatory obligation
4 under federal law, or a block to something you can do.

5 Do antennas have warnings on them?
6 Probably not. If you buy a little handheld radio
7 it'll have a warning to hold it away from your face,
8 but a professional antenna will not have a warning.
9 It's the job of the person who puts the antenna up to
10 post the warning sign.

11 And the last thing is ice. You're right,
12 if you keep the tower far enough away from people, ice
13 shouldn't hit people, except for the wind. But I've
14 seen one tower that has four legs planted against the
15 walls of two buildings, in this city so I don't know
16 what the rules are, but thank you very much. And I'd
17 like to compliment Jennifer Steingasser on her work
18 also.

19 CHAIRPERSON MITTEN: Thank you. Before
20 you go away, since you do have a lot of experience
21 with towers and so forth, and I take it you have some
22 experience with zoning regulations in other
23 jurisdictions?

24 MR. TANNENWALD: Not much.

25 CHAIRPERSON MITTEN: Are you aware of any

1 other jurisdictions that have the kind of regulations
2 that we're seeking to have, which are effective, and
3 protect the public, and are also compatible with the
4 business that folks are trying to do?

5 MR. TANNENWALD: I'm not really
6 specifically aware, but I don't think it's unique in
7 the District. Most of my clients have a lot of effort
8 going into getting permission to build a tower.

9 CHAIRPERSON MITTEN: Okay. Do you think
10 you might be able to come back on Monday? I mean,
11 you've been -- I remember you were great at the
12 roundtable, and the questions -- you respond to some
13 of our questions. If you were able to come back on
14 Monday and just listen to us, and then maybe we'll
15 bring you up at the end and you could say okay, here
16 are my final thoughts, that would be terrific.

17 MR. TANNENWALD: I can try to do that.

18 CHAIRPERSON MITTEN: Okay.

19 MR. TANNENWALD: Okay. Thank you.

20 CHAIRPERSON MITTEN: You're my favorite.

21 MR. TANNENWALD: Thank you.

22 CHAIRPERSON MITTEN: Thank you. Anybody
23 else in support? You need to come forward and get on
24 a microphone. Ms. Richards, I think you may have been
25 incorrectly identified as in opposition, as well, on

1 my list.

2 MS. RICHARDS: Yes. Ms. Boyd and I had
3 listed ourselves in opposition because we had some
4 caveats, but I think after hearing what's going forth,
5 we're more properly listed in support.

6 CHAIRPERSON MITTEN: All right.

7 MS. RICHARDS: I'm Laura Richards. I
8 represent Penn-Branch Citizens Civic Association in
9 Ward 7. We have had neighborhood experience with a
10 monopole that would have been banned under the
11 proposed new regulations, 100 foot monopole in an R-1-
12 B neighborhood, so we have followed this process very
13 closely. And there's much to admire and endorse in
14 the draft regulations, and we note the following
15 provisions in particular.

16 The total exclusion of monopoles from all
17 R and C-1 neighborhoods, and this is for our
18 association the most important reform contained in the
19 proposed rules. We would like to see no new antennas
20 added to existing towers in C-1 and R Districts. We
21 also like the provisions allowing towers, antennas and
22 monopoles as a matter-of-right only in M-1 Districts.
23 The setback provisions are very good. Also, the
24 regulatory consolidation is fine.

25 We endorse the required certification from

1 a licensed engineer. We know that this board doesn't
2 really have health concerns from OSHA and FCC as part
3 of its brief, but these are matters of grave concerns
4 to a number of residents, so our neighbors welcome the
5 opportunity to have that information certified, so
6 that they can have a base of information to do their
7 own monitoring, and to ask health-related agencies to
8 monitor. That was just a big, big issue for our
9 neighborhood.

10 Also, we think the requirement in Section
11 2614 for owners to remove any antenna that's been
12 unused for more than one year is beneficial, and the
13 benefits are self-evident.

14 As to the provisions that give us pause,
15 we're very much opposed to the Stealth structures. We
16 acknowledge the service appeal that comes from hiding
17 an antenna or monopole in a flagpole or a hollow tree,
18 but we think this kind of camouflage is not a
19 sufficient basis for removing these antennas from all
20 but the most minimal regulation. We think Stealth
21 attributes should properly be treated as plus factors
22 in a special exception application, not as the basis
23 for a matter-of-right antenna.

24 We're concerned with equipment shelters.
25 They are not mentioned in the regulations, except when

1 they're mounted on rooftops, and we think that
2 equipment shelters that are on the ground should also
3 be properly screened and fenced. They're boxcar
4 sized. They can be a real problem. Some of them are
5 fenced in with barbed wire, so we would hope that the
6 regulations could address the cosmetic aspects of
7 these, as well.

8 In a similar vein, we do think that
9 applicants should be required to address maintenance
10 issues during the special exception process, and ice
11 has not been a big issue for us, but overall
12 maintenance and upkeep is important.

13 We think the certification provisions do
14 need to be strengthened. Section 2601 should be
15 revised to require that certifications of compliance
16 with federal guidelines should be based on the actual
17 field measurements. You've heard this before. WE
18 think it's a good provision, and we endorse it.

19 An application for a new antenna tower or
20 monopole, whether it's by matter-of-right or special
21 exception should be accompanied by information on the
22 maximum capacity of the tower or monopole. We do
23 believe in periodic reporting on the capacity that's
24 actually in use.

25 Similarly, we believe that these special

1 exceptions should be time limited. I think seven
2 years is probably a reasonable amount of time. This
3 board traditionally - not this board but the Board of
4 Zoning Adjustment - has traditionally time-limited
5 special exceptions, and we think it's quite
6 appropriate here. We think it's a good sort of check
7 on owners, and will keep them, I think, more on their
8 toes about complying with all applicable regulations.

9 We thank you for the opportunity to
10 address these important and far-reaching regulations,
11 and we would be happy to answer any questions you may
12 have.

13 CHAIRPERSON MITTEN: Thank you. And,
14 ma'am, did you want to make a statement? Turn on the
15 microphone there. On the base, there's a button right
16 in the middle of the base, right on the front of it.

17 MS. DeBOYD: I would just like to say --

18 CHAIRPERSON MITTEN: Could you just state
19 your name?

20 MS. DeBOYD: My name is S. Thetis DeBoyd,
21 and I represent ANC-7B, specifically 7B07 with Dupont
22 Park Civic Association and Penn-Branch Citizens
23 Association within our purview.

24 Also, Ms. Richards has pointed out, we
25 have lots of experience with this last year, and I

1 gave almost one full year of my life to this point of
2 view. I want so very much to thank the committee,
3 because in reviewing this and working with Ms.
4 Richards, who has been my lifelong teacher, I always
5 go to her when I'm in trouble, and she got me started
6 on this anyway, to thank them so much, because having
7 gone through this, we had some first-hand experience
8 and knowledge of some of the information and what they
9 went through. We're so appreciative of that, and with
10 all the things we've talked about, we've talked
11 together, there are some things we do need to give
12 some credence to. And I was pleased with many of the
13 kinds of things that they picked up on, as Ms.
14 Richards has mentioned.

15 And again, as she's pointed out, we were
16 inundated with what was going to be initially 150
17 feet. Then finally, the opposition standing tall, it
18 became 100 feet. Then the fact that it was going to
19 be almost literally in the backyards of our neighbors,
20 so you can see how we felt very strong and worked real
21 hard. And literally, I do mean one year of my life in
22 97 degrees during the summer. Thank you very much.

23 CHAIRPERSON MITTEN: Thank you. Any
24 questions?

25 MS. DeBOYD: And I will bring in my --

1 send my comments tomorrow. Thank you.

2 CHAIRPERSON MITTEN: Thank you. Any
3 questions for these ladies? Thank you both, and thank
4 you, Ms. Richards, for participating in the task
5 force.

6 All right. Anyone else in support? All
7 right. At this point I'll just remind everyone of
8 what I had said earlier, which is that we're going to
9 go until about 9:30 tonight, and then we will
10 reconvene on Monday, the 21st, this coming Monday at
11 6:30 in this room. And between now and then, we'll
12 have time to read the detailed testimony, so anyone
13 who testifies tonight and submits something for us, if
14 you make yourself available on Monday, if we have
15 follow-up questions based on your written submission,
16 then we'd like to be able to put those questions to
17 you. And anyone here tonight who doesn't get called
18 up before we adjourn, if you leave your written
19 testimony, then that'll put us in the position to ask
20 you questions on your written testimony on Monday, as
21 well. Start with Jules Cohen.

22 MR. DONAHUE: Madam Chair, I'm not Jules
23 Cohen, but may I be heard on something very briefly?
24 Mr. Cohen is going to --

25 CHAIRPERSON MITTEN: Would you state your

1 name for the record.

2 MR. DONAHUE: My name is Edward Donahue,
3 law firm of Cole, Raywood, Ravin. We had submitted a
4 letter to the Commission early on requesting that Mr.
5 Cohen's presentation be given a little more time.
6 Frankly, there's a lot of discussion about the RF
7 emissions and health effects, and there's really one
8 person in the room who's a qualified expert on the
9 topic. We have submitted his report, copies are
10 hopefully before you. We submitted his report on
11 behalf of all six of the wireless providers, and Mr.
12 Cohen's CV is also before you. And I must say, his
13 qualifications are impeccable, his report is
14 excellent, but I doubt very much he's going to be able
15 to cover everything that needs to be covered in the
16 three to five minutes that you're going to allow him.

17 I didn't raise it as a preliminary matter,
18 but I would like the Chair to consider whether, given
19 the sophisticated nature of the testimony, and
20 frankly, that every one of the witness' concern about
21 health effects, we allow Mr. Cohen to run the time it
22 takes for him to cover the topic.

23 CHAIRPERSON MITTEN: Let me put this to
24 you, which is that we hold Mr. Cohen until Monday.
25 The Commission read his report between now and then,

1 and if the Commission feels that it's necessary to
2 have an extensive presentation from Mr. Cohen, we'll
3 be in a better position to -- an extensive oral
4 presentation by Mr. Cohen, then we can assess it at
5 that point in time. We'll be better informed about
6 the content.

7 MR. DONAHUE: I think that's an excellent
8 idea.

9 CHAIRPERSON MITTEN: Thank you.

10 MR. DONAHUE: Thank you.

11 CHAIRPERSON MITTEN: I just want to be
12 sure, the bound volume that we have, Mr. Donahue, this
13 is Mr. Cohen's. Is this Mr. Cohen's report? Just
14 hold up a copy of it so I make sure that we have it.

15 MR. DONAHUE: It was submitted on the 15th
16 with a cover letter from me, twenty copies. I've got
17 some copies, but it's included in that larger packet,
18 Madam Chair. Also in 9-B in the booklet.

19 CHAIRPERSON MITTEN: Okay. We have it.
20 I just want to make sure.

21 MR. DONAHUE: Thank you.

22 CHAIRPERSON MITTEN: All right. Robert
23 Cooper and Jim, I don't know if it's Michal. I know
24 that's not Mr. Michal.

25 MR. SWENDIMAN: Madam Chair, as a matter

1 of procedure, first of all, my name is Alan Swendiman,
2 and I'm the one that will be appearing on behalf of
3 Cingular Wireless.

4 CHAIRPERSON MITTEN: Okay.

5 MR. SWENDIMAN: Mr. Michal will be
6 appearing on his own behalf as a zoning attorney, an
7 attorney who works in this area, not only in the
8 District of Columbia, but in many of the surrounding
9 jurisdictions.

10 In terms of procedure also, Madam Chair,
11 if I may ask the indulgence of you and the Commission
12 in order to ensure that Mr. Erik Huey gets on in terms
13 of Verizon. If you would permit him to take my place,
14 and for me to swap with him, that would be much
15 appreciated. I think he comes much lower down on --

16 CHAIRPERSON MITTEN: Whatever order --
17 okay. So you -- we'll put you --

18 MR. SWENDIMAN: Yeah. I will take Mr.
19 Huey's place in the order, and be representing --

20 CHAIRPERSON MITTEN: And you're taking Mr.
21 Michal's place representing Cingular, but Mr. Michal
22 is representing himself.

23 MR. SWENDIMAN: Correct.

24 CHAIRPERSON MITTEN: I got it. Okay.
25 We'll start with Mr. Cooper.

1 MR. COOPER: Madam Chair, members of the
2 Commission -- first, Madam Chair, I thought I was your
3 favorite, and take exception to that.

4 CHAIRPERSON MITTEN: He's my favorite
5 because he's sort of neutral.

6 MR. COOPER: Okay. Madam Chair, my name
7 is Robert Cooper. I'm with the law firm of Jackson
8 and Campbell, and I'm here on behalf of Sprint. As
9 you know, over the years I've represented many of the
10 carriers, Nextel, Sprint, Cingular, WindStar,
11 Teligent, represent commercial property owners and
12 managers before the Board of Zoning Adjustment, and
13 also American Tower Corporation. And I've been
14 practicing in this area for the last 10 to 15 years,
15 primarily during the permitting process, through the
16 Department of Consumer Regulatory Affairs for these
17 carriers.

18 Now the introduction to the wireless
19 industry over the years was initially commercial and
20 business-based. It expanded to mobile phone use for
21 consumers, and has now expanded beyond just the
22 regular phone use. The wireless industry is providing
23 wireless modems, the transmission of photographs and
24 data, as well as telephone usage.

25 As a result of these 10 to 15 years of my

1 practice, it has been my experience that the
2 regulations did actually work, the process did work.
3 We would run our applications through the Department
4 of Consumer Regulatory Affairs, through the Zoning
5 Office, through the Office of Planning, through the
6 Historic Preservation Review Board, and any of the
7 other D.C. government agencies that require a review
8 of the application. Submissions of documents in
9 support of the application was routinely required, and
10 I'll get to this issue of Stealth, but we also
11 accommodated each of the agencies by providing them
12 with ample information.

13 Now there's a big difference between
14 wireless and mobile services, and broadcast
15 communications and broadcast services. The amount of
16 tower usage from wireless services is very minimal,
17 compared to broadcast. Now broadcast typically will
18 have one location in the District of Columbia, the
19 major towers that provide broadcast services. It's a
20 one direction of service. It's broadcast, not
21 reception. Whereas, because of the low wattage, low
22 power of wireless communications for phones, and PDAs,
23 and wireless mobile, it's a two-way communication
24 which requires more locations, more antennas, and
25 again, lower siting. The wireless services are also

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1 subject to topography, and trees and buildings, so
2 line of sight is of utmost importance due to their low
3 stature.

4 Expansion of services into all areas of
5 the District of Columbia is of utmost importance to
6 the carriers. Now because of the unique nature of our
7 city, you find that the majority of the tall buildings
8 and structures, such as office and apartment buildings
9 that are more than four stories tall, are primarily in
10 the northwest section of town. When you get to
11 northeast, southeast, and parts of southwest, you find
12 smaller structures. If you have a taller structure,
13 it's maybe one or two in a very large area; whereas,
14 in the downtown and northwest sections, Wisconsin
15 Avenue, Massachusetts Avenue and Wisconsin Avenues,
16 you have larger buildings which will accommodate these
17 rooftop antennas.

18 As such, the flat-out prohibition of
19 monopoles and towers in the R-1 and the C District is
20 completely and wholly objectionable. There's
21 absolutely no reason to have a flat-out prohibition of
22 those sites. It ought to remain as a special
23 exception.

24 Ms. Steingasser, of course, did a
25 wonderful job, and I've worked with Jennifer ever

1 since she came onto the Office of Planning, and we've
2 worked very hard to make Stealth structuring and
3 Stealth usage a priority. However, there are certain
4 circumstances where you cannot put an antenna on a
5 building and provide the level of service, and
6 equality of service to all the residents in the
7 District of Columbia, because there are no structures
8 to put these antennas on. And if you have a flat-out
9 prohibition, you're going to -- you will, and you are,
10 denying service to many residents of the District of
11 Columbia. And as wireless service expands, you will
12 find that the digital divide with respect to wireless
13 service will increase.

14 Now Stealth installations, we talked about
15 Stealth. Stealth is two ways. You have a Stealth
16 structure, which is an antenna within a flagpole or a
17 tree, as someone has said, but you also have Stealth
18 which is hiding antennas behind a structure or frame.
19 Well, to prohibit Stealthing all together, I think
20 there needs to be a definition of what Stealth means.

21 We've heard citizens say that, you know,
22 there should be no Stealthing at all. Well, we need
23 to accommodate the installation of antennas in certain
24 communities, and there are antennas on historic
25 structures throughout the city. Most of you don't

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1 know that because you don't see them. They're
2 Stealth. They're painted, they're hidden, but they
3 are there on historic structures, and it has been
4 working.

5 CHAIRPERSON MITTEN: Thank you. Mr. Huey.

6 MR. HUEY: Thank you, Madam Chair, members
7 of the Commission. I'm Erik Huey. I'm a D.C.
8 resident and an attorney with Venable, Baetjer, Howard
9 and Civiletti. I'm here on behalf of Verizon
10 Communications, and I'm presenting a brief overview of
11 the current state of the wireless industry, both in
12 Washington, D.C. area and throughout the nation.

13 Telecom legend has it that in 1982 when
14 the Bell System was broken up, and Judge Green gave
15 A.T.&T. the long distance service, and gave the local
16 Bell the directory and the local service, nobody knew
17 what to do with cellular service. And allegedly, on
18 the courthouse steps of the federal court building,
19 this general counsel for A.T.&T. said well, there are
20 only going to be maximum 200,000 subscribers for
21 wireless service ever in the U.S., so we'll just give
22 it to the Bells.

23 History has shown that the general counsel
24 of A.T.&T. was somewhat conservative in his estimate,
25 and currently there are nearly double that amount of

1 subscribers in the District of Columbia alone.
2 Indeed, 66 percent of the District of Columbia's
3 residents are wireless subscribers, which gives the
4 District of Columbia one of the highest wireless
5 penetration rates in the nation. By my math with
6 nearly 600,000 residents, that's almost 400,000
7 wireless subscribers who are District residents.

8 Nationwide, there are over 128 million
9 Americans who use wireless service, and the FCC
10 estimates that a new subscriber is added every two
11 seconds. That's between one and four million
12 subscribers per month, according to the Washington
13 Post. That compares to 300,000 nationwide subscribers
14 in 1985, and only 69 million in '98, so in the last
15 four years, the number of wireless subscribers
16 nationwide has nearly doubled.

17 By 2007, just a few years away, 80 percent
18 of U.S. households will use wireless phones. And
19 currently among wireless households they have 1.8
20 wireless telephones per household. But not only is
21 the number of subscribers increasing, the minutes of
22 use are increasing because of the evolving nature of
23 the service and service plans. The average monthly
24 minutes of use has doubled, actually increased three-
25 fold since 1998 from 120 minutes a month, to nearly

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1 400 minutes a month last year. Most people are using
2 their wireless phones at home to save on local and
3 long distance charges. Two years ago, 10 percent of
4 all telephone calls were wireless. In two years,
5 nearly half of all telephone calls will be wireless.
6 Five percent of Americans have cancelled their home
7 phone service all together in favor of wireless
8 phones, and nearly one out of five wireless users
9 regarding their wireless phones as their primary
10 phone.

11 When you add third generation services,
12 such as broadband Internet and 3-G, this number is
13 only going to increase. But it's not just consumers,
14 it's public safety, as well. And I want to share with
15 the Commission some 911 figures. Nearly half of all
16 911 calls are wireless in nature. In two years, that
17 number will be 70 percent of all wireless 911 calls.
18 That's over 57 million wireless 911 calls a year,
19 nearly 150,000 a day. Wireless phones help protect
20 people in emergency situations, whether their car
21 breaks down, or something worse happens. And there
22 was some testimony from OCTO about the need to cite
23 facilities owned by the District as part of public
24 safety, but public safety and national security also
25 depend on the publicly available sites, as the 911

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1 statistics demonstrate.

2 I believe that the White House
3 Communications Agency has filed a letter underscoring
4 the importance of seamless wireless coverage to the
5 White House. And if I may briefly read from that
6 letter, they state that:

7 "It is absolutely essential that the
8 President, Vice President, White House Senior Staff,
9 National Security Council and U.S. Secret Service have
10 instant and reliable access to the finest, most
11 technologically advanced forms of telecommunications,
12 especially wireless communications. Therefore, the
13 White House Telecommunications Agency has a vital
14 interest in securing the provision of ubiquitous
15 wireless coverage throughout the District."

16 Moreover, they ask that the Commission
17 achieve the goal of seamless wireless coverage by
18 enacting an ordinance that does not create unnecessary
19 obstacles to a complete and robust deployment of
20 wireless service in the District of Columbia.

21 The wireless industry is keeping up with
22 this expanding demand as quickly as we can. We are
23 doing it, as Robert mentioned, through the location of
24 antennas in the overwhelming majority of our sites.
25 WE're very mindful of aesthetic concerns, and we're

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1 working with the District, but we have nearly 400,000
2 citizens in the District to service. We have
3 businesses to service. We have visitors that we
4 provide service to. We provide service to the Public
5 Safety officials, and to the White House, and the
6 other National Security interests, so we're struggling
7 to keep up. We're merely asking that the rules be
8 developed in a fair and balanced manner that addresses
9 and appreciates the exploding demand for wireless
10 services. Thank you.

11 CHAIRPERSON MITTEN: Thank you, Mr. Huey.
12 Any questions for these gentlemen? Mr. Cooper, I had
13 a question for you; which is, if our variance standard
14 would not accommodate the issue of denial of service,
15 that wouldn't -- that could be an undue hardship, but
16 to tie it back to the site itself, there's -- you
17 know, denying service, you know, do we put the antenna
18 here or on the neighboring property, you know, that
19 kind of flexibility isn't anticipated in the variance
20 process. If we were to, in R Zones and where there's
21 a prohibition now, if we were to craft a segment of
22 the ordinance that would focus on requiring in those
23 zones where there's a prohibition suggested that the
24 applicant would have to show that, in fact, imposing
25 that would result in a denial of service, how hard

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1 would that be for you to prove?

2 MR. COOPER: Well, I think in the BZA
3 process, there is already anticipated that the
4 applicant must prove the need, you know. If there are
5 no buildings -- no wireless provider, and I think if
6 you took a poll of the wireless providers and talked
7 to Mr. Tannenbaum about his clients, no one would --
8 no carrier would prefer to build a monopole or a
9 tower. They would prefer -- it's cost-effective to go
10 on an existing structure. To build a monopole or
11 tower is hundreds of thousands of dollars and a lot of
12 time. No one wants to do that. They would only do it
13 in an absolute necessity.

14 In my years of experience, I've only done
15 one monopole at Benning and Minnesota Avenue, because
16 there were no structures there tall enough. And
17 again, as I said, with wireless communications, a tree
18 could block the transmission and reception and
19 interfere with the user's service, so I think by
20 simply saying prohibiting, then I don't even know how
21 you would have the opportunity to say whether it's
22 necessary or not. I think if you say a flat-out
23 prohibition, where do you -- how can you craft
24 language to say well, even though it's flat-out
25 prohibited, if you prove it's necessary then we'll

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1 review it. Well, that's the special exception
2 process.

3 CHAIRPERSON MITTEN: Well, I guess I'm
4 asking for something that's a little more severe,
5 which is I believe that the FCC regulations say as
6 they speak to bodies like the Zoning Commission, you
7 cannot impose regulations that result in the denial of
8 service. And so what I'm asking you is, if the
9 prohibition in residential zones and in the C-1 zone,
10 if you're suggesting that we are doing something that
11 we are prohibited from doing, and we create an escape
12 valve so that, you know, an applicant should have to
13 prove, in fact, that if we impose that prohibition, it
14 would result in the denial of service. And under
15 those circumstances, they would go into a special
16 exception process.

17 MR. COOPER: Right.

18 CHAIRPERSON MITTEN: How hard is that for
19 you to --

20 MR. COOPER: I'll give you an example. If
21 a new carrier were to come in after these regulations
22 are drafted, I believe the proposal was no new
23 antennas on existing towers that fall in the R or C-1
24 District. Well, now you're denying that applicant
25 from providing service to the District of Columbia.

1 If all the other carriers on this tower, on this
2 monopole if there's a co-location issue, and they're
3 there, then you're denying this new carrier from
4 putting his antennas on that same location. Now
5 you're in violation of the FCC, as I understand it.

6 CHAIRPERSON MITTEN: Okay. I'm going to
7 ask Mr. Tannenwald about that later.

8 MR. COOPER: Additionally, you know, well
9 this whole special exception process, I believe at the
10 initial roundtable, and at the second roundtable, one
11 of the concerns addressed by the representative of the
12 BZA was, well, you know, this is fine and good, but we
13 don't want to get bogged down with hundreds of
14 applications either, so craft language that doesn't
15 thrust this responsibility on the BZA.

16 Now if every Stealth application and all
17 of these others are being forced into special
18 exception, you've done just that. If you're talking
19 about coming back for every five years for
20 recertifications, you're talking about bogging down
21 the Board of Zoning Adjustment.

22 It's hard enough right now to file an
23 application, and get a hearing, and tell your client
24 well, you know, we don't have a hearing for six
25 months. Now you're adding hundreds of applications

1 into the BZA process, which is what the BZA
2 representative said at that roundtable for us not to
3 do. Don't push this off on us. We don't have the
4 staff or the power -- the staff - excuse me - and the
5 resources to deal with that issue.

6 CHAIRPERSON MITTEN: Okay. Anybody else?
7 All right. Thank you both.

8 MR. COOPER: Thank you very much.

9 CHAIRPERSON MITTEN: Mr. Michal. Mr.
10 Donahue, did you want to wait until Monday, or do you
11 want to go now?

12 MR. DONAHUE: I'd prefer to go tonight.

13 CHAIRPERSON MITTEN: Okay. I didn't know
14 if you and Mr. Cohen were a team.

15 MR. DONAHUE: WE are.

16 CHAIRPERSON MITTEN: Okay.

17 MR. DONAHUE: I'll be here Monday, as
18 well.

19 CHAIRPERSON MITTEN: Okay. Great. Look
20 forward to it.

21 MR. DONAHUE: Thank you.

22 CHAIRPERSON MITTEN: Mr. Michal is
23 representing himself, as I understand it.

24 MR. MICHAL: In my 15 years of experience
25 doing this work, let me just start out by saying I'm

1 with Jackson & Campbell for the last 15 years. I've
2 been representing several wireless providers, not only
3 in zoning applications, but also testifying before
4 county agencies, county boards, boards of supervisors
5 in amending zoning ordinances.

6 If you want to ask a question about what
7 other area local jurisdictions do, I can answer that
8 question. I've been involved in major revisions of
9 the Fairfax Ordinance, Ann Arundle County, Montgomery
10 County, Prince Georges County, Loudon County, Howard
11 County, and the like.

12 I can tell you that none of those
13 jurisdictions preclude the construction of towers or
14 monopole, or I should say monopoles in residential
15 zones. In some jurisdictions, they preclude towers,
16 but there is no absolute prohibition of monopoles in
17 any of these jurisdictions, and the reason is very
18 simple. They don't want to preclude service in
19 residential areas when they know the public demand is
20 there.

21 Now that's not to say that the standards
22 are not more severe in the residential zones, and the
23 industry understands that. What we want is the
24 ability to provide service with standards that we can
25 come in before a board of supervisors or a special

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1 exception hearing, and produce our evidence to satisfy
2 those standards. But Fairfax County allows them in
3 residential zones, Montgomery County does, they all
4 do.

5 Now what we don't try to do is build
6 towers, necessarily, as Mr. Cooper indicated. We want
7 to go on existing structures where we can, because
8 then it doesn't cost us as much, and we can put up our
9 structure in much quicker time, and provide service in
10 the area to the citizens that need it.

11 A couple of issues that have been raised
12 which are kind of like red herring issues about
13 safety. The safety record of this industry in
14 building facilities is impeccable. I've been involved
15 in probably approving anywhere from 60 to 80 towers in
16 that period of time, and up to 500 antenna sites. I
17 have not experienced, or any of my clients, an
18 untoward event in terms of harm to anyone, injury, or
19 the like. So the issue about danger to the public
20 from these facilities is, frankly, a red herring.

21 If you're going to be concerned about
22 poles or antenna sites that are going up, or things
23 falling down, you might as well be concerned about
24 every tree that lines the streets of the District of
25 Columbia, every light pole that carries lights, every

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1 pole that carries power lines, every light pole that's
2 on a highschool football field. All right. Our
3 safety record is, frankly, better in many cases than
4 most of those, because you come through with a severe
5 thunder storm in the area, you have hundreds of trees
6 that are down. And many of those, unfortunately,
7 cause damage to property, and in some instances to
8 individual. But I daresay, no one is proposing that
9 you cut down every tree or have a setback of every
10 tree. Those are accepted, welcomed and liked.

11 Well, I suspect that most people want
12 their wireless phones to work, and if you ask the
13 majority of the public if they would want to turn in
14 their wireless phone today, I daresay that 95 percent
15 would say over my dead body, because I've come to rely
16 upon it in my business, in contacting my kids at
17 school, in communicating with my spouse, and the like.
18 And so at the end of the day, what all this zoning
19 regulation amounts to is one simple thing; and that
20 is, what is the visual impact?

21 The industry is perfectly agreeable to
22 coming up with standards that mitigates visual impact.
23 I understand that. I'm a homeowner, as well.

24 CHAIRPERSON MITTEN: Could you wrap it up,
25 please?

1 MR. MICHAL: And I don't want to do it in
2 such a way that it precludes the provision of service
3 in a less visual impact way. Thank you.

4 CHAIRPERSON MITTEN: Thank you. Mr.
5 Donahue.

6 MR. DONAHUE: Thank you, Madam Chair.
7 Again, Edward Donahue of Cole, Raywood and Braverman.
8 I'm here tonight representing A.T.&T. Wireless
9 Services, Omnipoint known as T-Mobile, formerly
10 VoiceStream, and also Nextel Communications. I know
11 it's a mouthful.

12 Mr. Michal, Mr. Cooper and others have
13 covered a number of things. We've all participated in
14 the task force. We've been to the meetings. Like the
15 citizen representatives, we'd like to thank the Office
16 of Planning for its diligence in fulfilling its role
17 in chairing a number of meetings, and going over the
18 issues, and preparing a report.

19 I would submit to you, though, that the
20 report is deficient in that it doesn't address some of
21 the very legitimate and very serious concerns of the
22 industry. Following me, I believe on your list is Mr.
23 Meyer, and in my written statement to you, what I've
24 indicated is Mr. Meyer is going to speak to the
25 constraints on network design, so I'm going to skip

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1 over that. That's covered on page 2 of my testimony,
2 but there's one thing that I think that's been blended
3 together tonight, and was blended together throughout
4 the task force.

5 There is a fundamental difference between
6 a broadcast facility and a non-broadcast facility.
7 Mr. Tannenwald and others have discussed the Tinley
8 Town tower, others have mentioned the 500 and 700 foot
9 towers. Those are broadcast facilities. Wireless
10 providers, particularly in an urbanized environment,
11 place their antennas by and large on existing
12 structures, rooftops for the most part. The height of
13 those antennas are in the range of 100 to 125 feet.

14 Mr. Cooper is right. A new freestanding
15 monopole is an extraordinary expense for a wireless
16 provider. In the District, I'm aware of four, two of
17 them in Rock Creek Park, two of them which were
18 approved by special exception. That's four over a
19 period of say 15 years, that were for wireless
20 coverage. I think that's an important point. It's
21 not broadcast. A broadcaster always has to build a
22 tower, because he's got a 700 foot, he's got a strong
23 signal he's got to get out. The wireless providers
24 within the 95 percent range are on existing
25 structures, which brings me to my next point.

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1 Co-location is a term of art in the
2 industry which means that a wireless provider will
3 attach his antennas typically to a tower. However,
4 co-location also envisions going on transmission
5 towers, existing PEPCO transmission lines, existing
6 water tanks, other talk structures.

7 Frankly, every surrounding jurisdiction
8 recognizes that where there's an existing structure,
9 be it a light pole, be it a transmission or
10 distribution pole, that's an opportunity to co-locate
11 antennas, obviating the need for a new pole. That
12 idea was proposed to the task force and rejected, and
13 I think the Commission ought to ask why.

14 Where there are utility structures, why
15 shouldn't antennas be allowed to co-exist, if you
16 will, on the tall structure that's there? Why fight
17 the battle over the new pole when the structure is
18 already in place? Which brings me to a case in point.

19 Madam Chair, you asked about the special
20 exception process, and why couldn't we craft something
21 that would accommodate and address the issues of
22 prohibition? The Telecom Act provisions on
23 prohibition are winding their way through the courts.
24 No one is threatening litigation, but there are direct
25 protections afforded the carriers under the Telecom

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1 Act. My suggestion would be leave in place the
2 special exception requirement that you have today.

3 A case in point was Garfield Elementary
4 School, and I'm chagrined to remember that it goes
5 back to 1997. Mr. Parsons, you may remember this
6 site.

7 COMMISSIONER PARSONS: I do.

8 MR. DONAHUE: It's an 80 foot pole on an
9 elementary school in the 2400 Block of Alabama Avenue.
10 It provides coverage to Sooten Parkway. It's heavily
11 screened frankly by the height of the school, by heavy
12 tree cover, but it serves a need. It's an area where
13 there were no existing structures, where A.T.&T.
14 Wireless had identified a real hole in coverage, a
15 real gap. Now the coverage is there, and honestly,
16 I've been practicing in the District since '87. I've
17 never heard a word later that there was some heartache
18 over that site.

19 The Office of Planning recommended, and
20 the Board of Zoning Adjustment approved by a vote of
21 5-0, and recognized that the use was compatible with
22 the residential neighborhood, compatible. I don't
23 know what's changed. There have been a handful of
24 poles. You've got to back out Rock Creek Park because
25 that's a different situation. There have been a

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1 handful of poles that have been handled by the Board
2 of Zoning Adjustment. You've got an excellent Board
3 of Zoning Adjustment. Why wouldn't you leave that in
4 the good hands of the BZA? I guess I really don't
5 understand that.

6 My last point, and I really would like Mr.
7 Cohen to cover it on Monday night, it's clear from the
8 testimony of the residents, and it was abundantly
9 clear during the task force, that underlying all this
10 is a concern about health effects. There is a very
11 real, and there's a very direct preemption under
12 federal law.

13 Now we've worked out a scheme, and
14 Jennifer was instrumental in this, whereby the
15 carriers would certify that the antennas they were
16 proposing were in compliance. But frankly, all of the
17 antennas, all of the antennas are what are deemed to
18 be categorically excluded. In other words, they don't
19 require regular maintenance. They don't require such
20 certification. The FCC doesn't require certification
21 of these antennas. Mr. Cohen is the best one to ask
22 the questions on that, but I hope you do ask him those
23 questions.

24 CHAIRPERSON MITTEN: Okay. We want to get
25 a little more educated before we dive into it.

1 MR. DONAHUE: Yes, ma'am. No, as I said
2 earlier, I think that's definitely appropriate.

3 CHAIRPERSON MITTEN: Okay. Did you say
4 that at Garfield Elementary, that was a monopole?

5 MR. DONAHUE: Yes, ma'am.

6 CHAIRPERSON MITTEN: The -- I should
7 probably know the answer to this question because of
8 the testimony that we've had in the past and at the
9 roundtable, but I don't recall it. I don't know if
10 you're familiar enough with the tower that was being
11 built in Tinley Town, but was that being built --

12 MR. DONAHUE: That's a broadcast facility.

13 CHAIRPERSON MITTEN: That was a broadcast
14 facility.

15 MR. DONAHUE: Yes, ma'am.

16 CHAIRPERSON MITTEN: Are the economics of
17 co-location such that anybody would speculatively
18 build a tower for cellular, to hang a bunch of
19 cellular antennas on?

20 MR. DONAHUE: It hasn't been done in the
21 District. It's a rare occurrence in the surrounding
22 jurisdictions, but you do have tower builders. What
23 typically is the case, and I think we mentioned this
24 at the earlier roundtable. What typically is the case
25 and I think we mentioned this at the earlier

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1 roundtable, what typically is the case is that the
2 tower builder will come in and say Mr. Michal's
3 client, Sprint, has identified a need. They need an
4 antenna of 120 feet, and my clients have a need of 110
5 feet, and I have a third carrier, although I haven't
6 secured him yet. In other words, the board will
7 require legitimate licensed carriers before it will
8 treat the request as serious. You haven't had that in
9 the District, to my knowledge.

10 MR. MICHAL: Spec towers don't -- these
11 tower builders get commitments from at least one, but
12 two to make it economically work before they'll go
13 through the process. They're not about to spend all
14 that money unless they know they've got two tenants.
15 It's like an office building. An office building
16 developer, if he's going to get his financing from the
17 bank, the bank wants to see an anchor tenant or two,
18 same thing with a tower builder.

19 CHAIRPERSON MITTEN: And I understand
20 that. I guess what I'm asking is, you know, you're
21 trying to draw our attention to the very big
22 distinction between the broadcasters, and that they
23 must have towers. And then there's all the wireless
24 people who just need -- you know, they want to go on
25 top of a building, or they want to go on a monopole in

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1 a sort of extreme situation. And so if we -- I want
2 to know if it's truly a separate issue with towers?

3 MR. DONAHUE: Let me answer something that
4 might help you. I would submit that the burden of
5 proof on the applicant is the same, and in a recent
6 case the Office of Planning and the Board of Zoning
7 Adjustment looked long and hard at what are called
8 propagation maps. Mr. Meyer is going to show what one
9 looks like, but the identification, the proof of need
10 is critical in these cases. And when the board looks
11 at this, when staff looks at this, they want to know
12 that there's a legitimate identifiable need. Where
13 will the call be dropped if this tower weren't
14 approved?

15 That burden of proof lies with the tower
16 company, as it does with the wireless provider.
17 That's the reason they don't go in without a
18 legitimate tenant, assigned tenant, so I don't think
19 it's a real concern. I understand the question, but I
20 don't think it's a real concern.

21 CHAIRPERSON MITTEN: Okay. You said, and
22 I got part of what you said, and I'm not sure that you
23 carried the thought out. You said there is a real and
24 direct preemption under federal law, and then you were
25 speaking about maintenance requirements and so forth.

1 The preemption, as I understand it, is that we may not
2 impose regulations as it relates to radio frequency
3 emissions that are more restrictive than the FCC
4 guidelines. What other preemptions are there?

5 MR. DONAHUE: The Office of People's
6 Council said it rather succinctly, and I put it in my
7 letter. And that was submission to the Zoning
8 Commission in July of 2001. And it says, quite simply
9 on page 5:

10 "Congress federally preempted the state
11 and local government's authority to regulate on the
12 basis of health effects of radio frequency emissions."

13 CHAIRPERSON MITTEN: Okay. But does that
14 -- regardless of what people think is happening as a
15 consequence of the cumulative effects exceeding the
16 FCC guidelines, regardless of what the implication of
17 that is for anyone, do you believe that there's
18 anything that preempts us, do you believe that the
19 federal regulations preempt us from measuring to
20 determine whether or not antennas are creating the
21 cumulative effect that exceeds the FCC guidelines, for
22 whatever reason you might want to do that?

23 MR. DONAHUE: What we agreed with with
24 Office of Planning was certification. Field testing,
25 which has been discussed tonight, is a tremendous

1 burden on our clients. The cumulative effect is a
2 highly specialized concept, and Mr. Cohen is really
3 going to have to speak to that.

4 CHAIRPERSON MITTEN: Okay.

5 MR. DONAHUE: The testing, I believe, is
6 unwarranted, and I believe under the broad reading of
7 the preemption, frankly, I think it is preempted.
8 Yes, ma'am.

9 CHAIRPERSON MITTEN: Okay. We'll explore
10 that further when we talk to Mr. Cohen.

11 Mr. Michal, it would be helpful to us if
12 you had any specific regulations that you thought were
13 superior, you know, in some way from a neighboring
14 jurisdiction that you would offer to us that we could
15 take a look at.

16 MR. MICHAL: Sure.

17 CHAIRPERSON MITTEN: We'd appreciate
18 having that.

19 MR. MICHAL: Absolutely. What you don't
20 want to do is -- what the industry, frankly, wants are
21 standards that are certain, predictable, but have a
22 little bit of flexibility to take into account things
23 like topography and the like. And what we also want
24 to have is the same opportunity to provide quality
25 services in the District, such as you do in Fairfax or

1 the adjoining counties. You don't want there to be a
2 thriving wireless jurisdiction adjacent to you, and
3 then when businesses come over here in the District of
4 Columbia, find it wanting. Business is going to want
5 to stay here in the District of Columbia. They're
6 going to want to move elsewhere, so what you want to
7 have is, in this licensed area, the Washington,
8 Baltimore metropolitan area, relatively reliable
9 service in all the adjoining jurisdictions, because as
10 you drive from Maryland into the District or from
11 Virginia to the District, there's a hand-off that
12 occurs. If you're on the Sprint network, or Cingular,
13 or Verizon, you're on their network, so as you're
14 traveling across the Key Bridge, you're being handed-
15 off from a Rosalyn site to a site that's in the
16 District of Columbia. Well, you don't want to drop
17 that call when you come across Key Bridge, or any of
18 the other bridges, so what you -- to keep the District
19 of Columbia providing the same quality of services and
20 be competitive, you want to have zoning ordinances
21 that offer the same opportunity for the carriers as
22 the adjoining jurisdictions.

23 That's why you will not find absolute
24 prohibitions in these other jurisdictions. But as Mr.
25 Donahue said, and others have said, they put the

1 burden on the applicant to demonstrate why they need
2 a site in this particular location, why the need a
3 tower, why can't they use an existing structure? You
4 know, we're not tower builders. We're in the business
5 of providing service, and one of the things the
6 District is blessed with was enough tall buildings, at
7 least downtown and in some areas where the highrise
8 apartment buildings provide that service. But there
9 are pockets in the District of Columbia where there
10 aren't tall buildings, and that's where a lot of folks
11 live, but those same folks now want to be able to use
12 their wireless phone.

13 One other thing that they do. All the
14 jurisdictions also encourage the use of public lands
15 where the facilities can go. The reason for that is,
16 one, the public agencies can garner the revenue
17 associated with having a facility there. And also,
18 public lands often offer the best land use site. For
19 example, parks or highschool football fields where
20 there are already structures that are tall in nature,
21 so many jurisdictions say to a carrier locate on a
22 park, locate on the school light pole.

23 In fact, the District of Columbia school
24 system has several sites on school buildings, and to
25 my knowledge, that's worked very well. And the

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1 industry continues to work with the school system to
2 provide sites on school properties which, frankly, the
3 citizens who live nearby probably have never even
4 noticed that they were there, and have not caused a
5 problem. So what we want to see is an ordinance that
6 encourages the use of public land, because we think
7 the public can benefit that, the agencies involved,
8 and also standards in residential areas.

9 We're not asking for a pass in residential
10 areas. We're all homeowners. We know it, but at the
11 same time as a homeowner, I think homeowners want to
12 be able to use their wireless phones now in their
13 homes.

14 CHAIRPERSON MITTEN: Thank you. Mr. May.

15 COMMISSIONER MAY: Yeah. I'm glad you
16 ended on the residential question, because the -- I
17 mean, what this seems to be boiling down to in terms
18 of the proposed regulation, all the testimony that
19 we've heard in opposition is the focus on the absolute
20 ban in residential districts. Right?

21 MR. MICHAL: That's the --

22 COMMISSIONER MAY: This is the one box on
23 the big chart.

24 MR. MICHAL: That's that the biggest rob.
25 That's correct. The biggest concern, I think that --

1 COMMISSIONER MAY: And your desire is to
2 see it as a special exception process.

3 MR. MICHAL: Which it is now.

4 COMMISSIONER MAY: All right. Going back
5 to your experience in other jurisdictions, and the
6 rationale for monopolies as opposed to mounting on
7 existing buildings. There are significantly different
8 development patterns in the counties that you cited,
9 and I wonder whether there is -- I mean, in your
10 experience, is there a lot more monopolies in use in
11 those areas simply because you're dealing with
12 relatively low rise residential areas, and there are
13 not a lot of tall buildings around, and you can get
14 more coverage out of a monopoly covering a lot of
15 suburban houses. I mean, what's -- how does it work
16 out technically?

17 MR. MICHAL: Well, in Fairfax, which has
18 large residential areas, I mean, there are monopolies
19 that have been built now. But what the local Board of
20 Supervisors out there encourage the carriers to do is,
21 where they can, to go with the Stealth technology.
22 And that I mean this; and not all carriers are able to
23 function as effectively as others, but for example, in
24 the case of Sprint, we have a number of applications
25 proposed which are flagpoles. And to the outside

1 world, to the public they just look exactly what they
2 purport to be, flagpoles with a flag flying on it.

3 I received approval for three of those,
4 two of those in Fairfax in residential areas, and have
5 a couple of more pending. And in fact, when the
6 community came out they said well, this is neat. We
7 like it. It looks like a flag, and we're glad because
8 we want the service, and those have been approved.

9 The reality is it would be very difficult
10 to get like say 120 foot monopole approved, that was
11 not -- didn't have some sort of painting or
12 camouflaging aspect to it, that was visible to
13 hundreds of homes, because there would be a lot of
14 citizen opposition or community opposition. No
15 carrier wants to face that, and so what the industry
16 has to do is work harder with that, or maybe find an
17 area with a more vegetative buffer or the like. So in
18 those areas where -- and there have been poles that
19 have gone up in residential areas.

20 Big example, in Fairfax there are probably
21 half a dozen poles at highschool ballfields where the
22 carriers have replaced the light pole that carries the
23 football lights, that let's say was 80 feet. They
24 replaced that 80 foot light pole with a light pole
25 that is now 100 feet. You reattach the lights at 80,

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1 and put the cellular antennas at 100 feet. That's
2 worked swimmingly, and it's been able to get the
3 coverage in the residential areas where those
4 highschoools are located, so those are sort of the dual
5 uses, if you will, that we've been encouraged to do in
6 these other jurisdictions. And we do have to go
7 through either a zoning and/or planning process in
8 those jurisdictions, but they don't prohibit it.

9 And I'll quote the Planning Commissioner
10 of Fairfax County, who's very good. He represents the
11 citizens, everybody very well. After he approved one
12 of my sites, which was a pole. And I think it was
13 just a regular pole, it may have been. He said look,
14 we want you citizens to understand that the reason
15 this carrier is in here asking for this pole and this
16 antenna facility here is because you folks out there
17 are buying these cellular phones, not only for
18 yourself, but for your spouse and your kids, and
19 you're putting them under the Christmas tree every
20 year. And so while you may not like it in your
21 neighborhood, the reason this carrier is in here is
22 because of the public demand for the services.

23 COMMISSIONER MAY: Okay. Well, we've
24 heard a lot tonight about how desirable it is to have
25 good cell phone coverage, and I'm still waiting and

1 hoping that with some of the coming testimony we'll
2 hear more about the technical reasons why that's
3 necessary. Because, you know, it's hard to argue with
4 the things that have been submitted, you know, in
5 terms of the desirability of having better and uniform
6 coverage, and multiple providers and all that. I
7 think we all can agree on that, although, you know,
8 there are certainly times when I wish my wireless
9 devices were not on anywhere near me, but we,
10 nonetheless, have to have them.

11 I guess I did have another question, and
12 I'm trying to find it in my notes here. Bear with me
13 one second. I guess this kind of goes back to the one
14 BZA case that almost occurred on a monopoly in the
15 recent past, and my recollection of that case, having
16 sat on the case that was not really fully heard,
17 because eventually the application was dropped, was
18 that there wasn't significant proof or evidence
19 presented that the monopoly was really the only
20 solution. And so I have to question, Mr. Donahue,
21 your assertion that the monopoly is really kind of the
22 last resort. I'm not saying it's not true. It may
23 well be, but it wasn't proven in that case, so I'd
24 like to know more about why that is.

25 MR. DONAHUE: The case you're referring to

1 I believe is Penn-Branch?

2 COMMISSIONER MAY: Yes.

3 MR. DONAHUE: The one that I was referring
4 to was on Kenilworth Avenue.

5 COMMISSIONER MAY: I wasn't involved with
6 Kenilworth Avenue. I'm just talking about Penn-Branch,
7 but you made the general statement that monopolies are
8 kind of the coverage method of last resort.

9 MR. DONAHUE: My advice to my client in
10 connection with the Penn-Branch case was, it's an ill-
11 advised application and we ought to stay away from it.
12 I looked at it. I looked at the site, and that was my
13 advice.

14 COMMISSIONER MAY: So you didn't agree
15 with that one.

16 MR. DONAHUE: When I spoke earlier about
17 working with OP on RF proof of need, it was a site on
18 Kenilworth Avenue that was approved by the Board of
19 Zoning Adjustment, after some pretty tough -- Jennifer
20 handled it, some pretty tough wrangling with the RF
21 engineers, that they were put to the proof. On Penn-
22 Branch, I can't say beyond what I've said.

23 COMMISSIONER MAY: Right. Okay. I don't
24 know that there wasn't more to be presented, because
25 it was not -- the case was never fully presented, as

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1 I recall. I guess it would be useful, again this is
2 my yearning for knowing not just why cell phones are
3 good, but why the methods of delivering that service
4 are what you require, what you're saying is necessary,
5 and so I'm yearning for more of that information.

6 MR. DONAHUE: I'll remind you that what I
7 mentioned earlier, the next person up is a network
8 design person, who's going to speak to the constraints
9 and, frankly, the challenges they face on design.

10 COMMISSIONER MAY: Okay. Well, I'm
11 looking forward to that.

12 MR. DONAHUE: Yes, sir.

13 MR. MICHAL: The one big thing that
14 distinguishes between towers and monopoles, you know
15 the difference. Towers are three or four-legged, and
16 monopoles are a device which is a pole similar to
17 carrying the lights on ballfields.

18 COMMISSIONER MAY: Right.

19 MR. MICHAL: The preference around the
20 area jurisdictions has been a clear preference to
21 prefer monopoles over towers, and so I mentioned that
22 in some jurisdictions they don't want towers. They
23 preclude towers in residential zones, but they do not
24 preclude monopoles, and I want to do that, because
25 monopoles are more in the environment in other

1 applications.

2 CHAIRPERSON MITTEN: Okay. Thank you.

3 MR. MICHAL: And there are pictures of all
4 these in the industry submission of different types of
5 uses and the like.

6 CHAIRPERSON MITTEN: Thank you. Mr.
7 Hannaham.

8 MR. HANNAHAM: I'm sure that both of you
9 gentlemen were here when Dick Wolf made his remarks,
10 remember the fellow who worked for NASA. He mentioned
11 that technology is moving so rapidly, that before we
12 know it, most of this discussion we're having here
13 about these obstacles will probably be behind us. I
14 wonder from your vantage, how rapidly do you see those
15 kinds of developments changing, and making all of this
16 moot?

17 MR. MICHAL: Well, the best example of
18 that is about five years ago I was hit with a lot of
19 questions about will satellites do the trick, and
20 replace towers and monopoles on the ground. The
21 answer I gave was no, and the best example of that -
22 there was a company, Iridium, who put up 66 satellites
23 in orbit, spent \$6 billion and couldn't get anybody to
24 sign up, and they went bankrupt, and so satellites
25 aren't the answer.

1 What will happen --

2 COMMISSIONER MAY: Should we remind you
3 about the A.T.&T. lawyer comment on the steps after
4 the court decision?

5 MR. DONAHUE: Jim was just a kid in
6 highschool back then. He wouldn't remember that.

7 MR. MICHAL: Anyway, the answer to that is
8 there are technical people working on better, more
9 progressive applications to make less infrastructure
10 that we now have. But the problem is, you need to get
11 to that point and serve the public now, so what we
12 have to do is, continue to provide the service that
13 we're doing. Hopefully, get new technological
14 developments that would reduce the number of sites
15 that we need, or reduce the number of equipment.

16 We've got to pay rent on every site. If
17 Sprint, or A.T.&T., or Nextel could get away with
18 deploying a network of only 50 sites, and only have to
19 pay 50 landlords instead of 200, they'd be happy to do
20 that, but the technology isn't there yet. But in the
21 meantime, what we have to do is serve our subscribers
22 until we reach that point where technology gets
23 better. You just don't stop doing what you're doing
24 as progress evolves, but you try to stay apace with it
25 for legitimate business planning reasons.

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1 So will the time come five years, ten
2 years out? It may result in less infrastructure, and
3 the reason that's reflected is often in the leases
4 that the carriers sign with landlords, what they
5 typically do is sign a five year lease with three five
6 year renewals. The belief is that we're more than
7 likely going to be there 20 years, but we want to be
8 able to take a step back every five years and say hey,
9 do we still need to pay that landlord on that site, or
10 can we do something else where we can save those tens
11 of thousands of dollars of rent?

12 Now as I said, most of the time it is
13 renewed, but we carve ourselves the ability to revisit
14 each and every site periodically to make sure we do
15 need it. All this equipment, all this rent is very,
16 very expensive. And if we can find another way to do
17 it and provide the service without having to spend
18 that money, we'll do it.

19 MR. DONAHUE: It's always difficult to sit
20 next to Jim because he answers everything, and you
21 never get a chance.

22 MR. HANNAHAM: Okay. And you're speaking
23 globally in terms of this technology now. You're not
24 just saying where we are right now in the rest. Are
25 we in the front in terms of the technical advances in

1 this particular area?

2 MR. DONAHUE: In terms of the number of
3 users ---

4 MR. HANNAHAM: Because I heard a lot of
5 really fascinating things happening in the European
6 sector with respect to wireless.

7 MR. DONAHUE: There's two interesting
8 things going on that we see in the trades; and that is
9 that, the U.S. is roughly in the middle in terms of,
10 you know, where wireless usage is. Some of the
11 Scandinavian countries, Israel, some other places you
12 approach -- Ireland, you approach 90 and 90 plus
13 percent of the total population with a cell phone. In
14 some of the developing countries where the
15 infrastructure is either not there because it wasn't
16 built, or it's been demolished, the governments are
17 literally making the decision to forego copper or
18 fiber optic and building a national wireless network,
19 or aiding in the development of a wireless network in
20 lieu of a copper or fiber land line system, so it's
21 not just us.

22 I guess the other thing that I would
23 remind you, Mr. Hannaham, earlier on the
24 representative from OCTO spoke to the need to have
25 coordination among the first responders in the fire,

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1 and the EMS, and Public Safety, et cetera. And he
2 rather obliquely mentioned that there was a \$40
3 million contract coming to the District of Columbia.
4 That suggests that there is a serious commitment to
5 wireless technology in order for the Public Safety
6 folks to upgrade a system that, as he indicated, is
7 inadequate at this point. For the foreseeable future,
8 wireless is here to stay. Satellite, unfortunately
9 for a lot of folks, especially those holding Iridium
10 stock, is not the answer.

11 MR. HANNAHAM: Okay. Well, thank you very
12 much.

13 MR. DONAHUE: Yes, sir.

14 CHAIRPERSON MITTEN: Thank you. Anybody
15 else?

16 COMMISSIONER PARSONS: Yes. I want to ask
17 Mr. Donahue, you're urging us to urge the industry to
18 use existing poles and structures. And you used the
19 example of overhead power lines, and I don't think we
20 have in the District of Columbia, but it prompted my
21 thought that, can you locate cellular equipment on a
22 broadcast tower?

23 MR. DONAHUE: Yes.

24 COMMISSIONER PARSONS: Yes. Is that true
25 in the residential areas along Nebraska Avenue? Have

1 you taken advantage of that?

2 MR. DONAHUE: The broadcast towers are
3 certainly an avenue. I know that, for example,
4 A.T.&T. Wireless is on the broadcast tower at American
5 University, and I believe also on the Channel 4 campus
6 there.

7 The difficulty is, broadcast is a big
8 boomer. Channel 4 broadcasts throughout the region
9 from Nebraska Avenue. Wireless, the spacing of
10 wireless facilities in the downtown area may be a
11 mile, maybe less. In a more suburban it'll be a
12 couple of miles. The broadcast towers fill one need,
13 but not the one that's two miles away.

14 River Road broadcast towers, right there
15 just above Crescent Trail, is one with a number of
16 wireless providers on it, which gives nice coverage
17 there on the border near Western Avenue, but there's
18 only so many broadcast towers. And I think there's
19 probably not going to be a whole lot more based on
20 what I've heard over the last year and a half. But in
21 terms of co-locating, yes. They absolutely are an
22 option.

23 COMMISSIONER PARSONS: Thank you.

24 MR. DONAHUE: AM radio is a difficult
25 story, a little different there, but on typical

1 broadcast, yes.

2 COMMISSIONER PARSONS: Thank you.

3 CHAIRPERSON MITTEN: Thank you. Anybody
4 else? Thank you both.

5 MR. DONAHUE: Thank you.

6 CHAIRPERSON MITTEN: We're at the magic
7 hour of 9:30, so I'm going to close it out for
8 tonight, and ask anyone who didn't testify tonight who
9 plans on testifying on Monday, if you have a written
10 submission get that into us so that we can be prepared
11 to ask you any questions that we might have about your
12 written testimony on Monday. And I now declare this
13 Public Hearing adjourned.

14 (Adjourned 9:26 p.m.)

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